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ABSTRACT

In 1992, the first year of the establishment of the European Forum for Child Welfare (EFCW), the European Commission sponsored a seminar on European Community (EC) implications for adoption and fostering. The seminar was organized to enable practitioners, legislators, and policymakers within the EC to start a dialogue on current adoption processes, practices, and procedures, and to establish baselines of information on current practice and procedure within the member states. This report contains seminar presentations, and is divided into the following eight sections: (1) legal aspects and safeguarding the rights of adopted children; (2) approval and preparation of applicants to adopt; (3) matching of child and family; (4) perspectives of adopted children; (5) placement of special needs children; (6) workshop themes and findings; (7) recommendations; and (8) an overview of responses to a questionnaire on European adoption practices. Appendixes include the questionnaire sent to all seminar participants prior to the seminar; a list of participants; the seminar program; information on the Hague Conference on Private International Law; and a preliminary draft convention on international cooperation and protection of children with respect to intercountry adoption. (MM)

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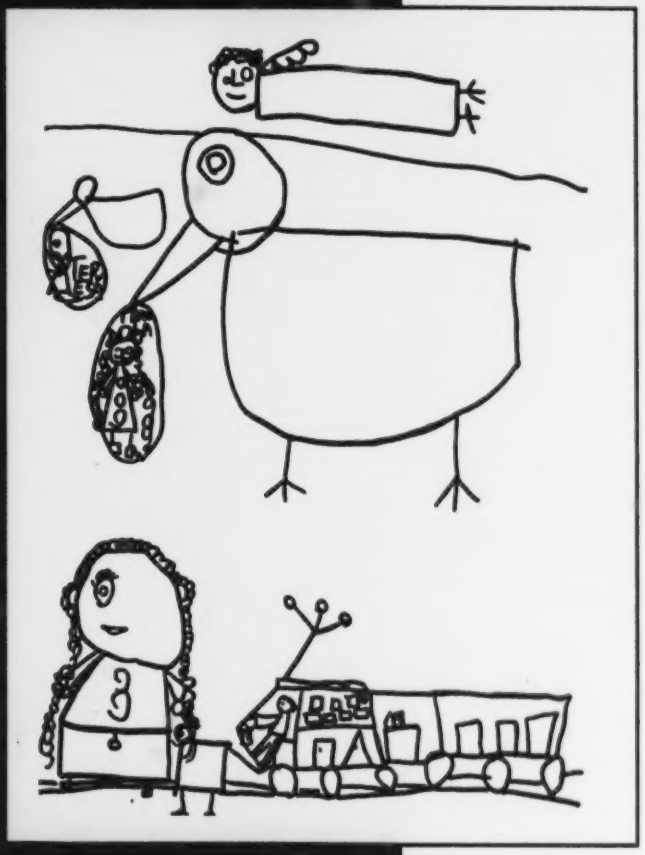

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Child Welfare in Europe

1993: Implications for Adoption

Jan Carroll
Sarah Williams

Report of a Seminar held in March 1993 in Brussels

Sponsored by the European Commission

EUROPEAN FORUM FOR CHILD WELFARE

FORUM EUROPEEN POUR LA PROTECTION DE L'ENFANCE

(A regional group of the International Forum for Child Welfare)

PREFACE

As President of the European Forum for Child Welfare, I am pleased to commend this important report. EFCW exists to improve the quality of life for children and young people in Europe, and we hope this document will be widely read by legislators, policy makers and practitioners.

Although the European Community has, as yet, no "competency" in the area of adoption and fostering, the consequences of the single market will inevitably have a profound effect in those areas of activity within the European Community.

If we are to avoid the damage that results from the sale or traffic in children or the use of children to satisfy the desires of adults, the very highest standard of practice and clear ethical principles, in adoption and fostering, must be developed in all member States. We cannot countenance children fostered or adopted with unsuitable parents.

This report highlights the fact that the similarities in practice which exist throughout the Community are greater than the differences and a convergence of philosophical attitudes in relation to adoption is developing across member States. With workers, and therefore families, being able to move freely across frontiers the differences in criteria for would be adopters in the member States may not always be in the best interest of the child.

Much remains to be done - there should be no complacency, and it is the intention of EFCW to monitor the effects of the ratification of the Hague Convention on Adoption by member States and to report accordingly.

Tom White
President EFCW
NCH
London. June 1993.

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INTRODUCTION

In the course of 1992, the first year of the establishment of the EFCW, the European Commission offered to sponsor an EC Seminar on "1993 and the Implications for Adoption and Fostering", if the EFCW would organise and plan the event.

Although the European Community has, as yet, no "competency" in the area of adoption and fostering, the consequences of the Single Market and open frontiers will inevitably have a profound effect on these issues. Intercountry adoption particularly raises thorny questions about morality, regulation and legitimacy. Nevertheless, the practice is well established and needs to be constructively addressed.

THE AIMS OF THE SEMINAR

These were:

1. To exchange information and experiences between adoption and fostering social work practitioners, policy makers and lawyers within the member states on aspects of adoption and fostering.

2. To produce a report of the proceedings for wide dissemination within member states which will identify common factors, models of good practice, problems of compatibility and will include proposals for the EC and national governments.

3. To consider and identify those practices and procedures, which reflect the UN Convention on the Rights of the Child. In particular:

Art.8 The right to an identity.
Art.12 The child's right to be heard in any judicial and administrative proceedings.
Art.18 State responsibility to support parents in their role as parents.
Art.19 State responsibility to protect children from all forms of maltreatment including exploitation by parents or **others** responsible for their care.
Art.20 Entitlement to special protection when deprived of own family and desirability of continuity in child's ethnic, religious, cultural and linguistic background.
Art.21 Specific adoption matters (to be provided in full).
Art.25 Right of child placed by State to have all aspects of placement regularly reviewed.
Arts.34
35,36 Right to protection from all forms of exploitation, trafficking and abduction.

Reference will be made to the EC Charter on the Rights of the Child and the following paragraphs will be of interest:

8.9 (registration, entitlement to name and nationality),
8.10 (protection of identity and right to information regarding biological origin),
8.14 (courts must safeguard child's interest and child's views must be heard, this para. specifically includes adoption in this matter),
8.16 (adoption of children in their territory)

The Hague Conference on International Private Law as it relates to adoption should also be borne in mind. The UN Declaration on Social & Legal Principles Relating to the Protection & Welfare of Children, with special reference to Foster Placement and Adoption Nationally and Internationally is also relevant **(Articles 17 - 24)**.

THE DESIGN OF THE SEMINAR

Given that the seminar was organised to enable practitioners, legislators and policy-makers within the EC to start a dialogue on current adoption processes, practices and procedures, it was important to establish some baselines of information on current practice and procedure within the member states beforehand. To this end, the EFCW member/participants from member states were asked to fill in a questionnaire (see Appendix 1.) before the seminar and to submit a case history or issue which might be considered of interest to the seminar. The resultant issues were used as the basis for presentations and areas of interest to be worked on during the workshops.

Participation in the Seminar was by invitation only. It comprised EFCW Council nominated social workers who were professionally engaged in adoption work, as well as lawyers and policy makers from the member states professionally concerned with adoption. The decision as to the participation of the last two was taken in collaboration with the European Commission and the Ministry for Social Affairs for the French Community in Belgium.

PRESENTATION OF MATERIAL IN THIS REPORT

Although the material presented in case histories and presentations at the Seminar is grouped under five chapter headings, much of the material overlaps and raises issues under several of the headings. For instance, the documentation grouped under (IV) the Voice of the Child, groups material from France, Ireland and Belgium. However, it will be obvious that these issues are touched on in the case histories from Spain, and the Netherlands. Similarly, material group under the heading (II) Approval and Preparation - and (III) Matching -, could perhaps all be regarded as coming within the ambit of (I) Safeguarding the rights of the child!

The headings are therefore simply a guide to direct the reader to documentation which may be of particular interest to him and acts as a guide to the main issues touched on within the material concerned.

CHAPTER 1

THE FREE MOVEMENT OF PERSONS AND CONSEQUENCES FOR ADOPTION - LEGAL ASPECTS AND SAFEGUARDING THE RIGHTS OF THE CHILD

Presentation by Mr. Hans Van Loon, First Secretary, Hague Conference on Private International Law.

It was an excellent idea to devote a special seminar to the effects on adoption of the free movement of persons in Europe. This seminar is also very timely, given that at the coming Centennial Session of the Hague Conference on Private International Law, which will take place at the Hague 10-29 May, negotiation will be completed on a Convention on international co-operation and protection of children in respect of intercountry adoption. All EC countries will be participating in this Diplomatic Conference, just as they have already participated in the meetings of the Special Commission of the Hague Conference. This Special Commission, after three meetings of two weeks each, has produced a Preliminary Draft Convention, a copy of which was included in the materials sent to the participants. Indeed, several of the participants present at this seminar have been actively involved in the drafting process, while others have given valuable advice or taken part in parallel projects aimed at implementing some of the aspects of the draft even before its completion.[1]

I will first give a short introduction on the Draft Convention to explain its present and future status. Next I will discuss what falls and does not fall within its scope as well as its structure in outline. Finally, I will illustrate the Convention's application to people moving in Europe by giving a few practical examples of cases: cases which may arise between an EC country and a non-EC country, and those which may arise among EC countries. It should be clear at the outset, however, that the Draft does not make such a distinction. As it now stands, it applies in a uniform way to all future contracting States, and it may be assumed that joining the Convention will ultimately be open to all States.

A Present and future status of the Draft Convention

The Preliminary Draft Convention may already have a certain moral authority, but it has no binding legal effect. The fact that some countries such as Romania, Albania, Belgium, Peru and China have introduced some of its features, in particular the idea of a Central Authority and the privileged route for the submission of applications for adoption through agencies approved by the two countries concerned, is a purely domestic matter for these countries.

Also, some of the provisions of the Preliminary Draft are still between brackets. That is an indication of their provisional or, in some cases, controversial nature. This is true in particular for Article 23, which contains a reservation with regard to recognition of foreign adoptions for those States which condition adoption on the satisfactory completion of a probationary period, a provision which was highly disputed during the preparatory Special Commission meetings. It is also true for Article 24, which deals with the effects of adoption and whose implications have not yet been fully examined. Moreover, other articles will certainly be amended and additional Articles will have to be added, hopefully while maintaining the basic structure of the Convention. From 10-29 May, the text will be completed and general and final clauses will be added.

As indicated above, all EC countries will be participating in the final negotiations along with an additional fifty or so other countries invited as Member States or non-Member States: the countries of South and Central America, the United States and Canada, several African

[1] See reports entitled **Romania - The adoption of Romanian children by foreigners** (April 1991) and **Regulating intercountry adoption from Albania** (October 1992).

countries and many countries from Asia and Eastern Europe. The Member States of the Hague Conference, which number thirty-eight at the moment, at an early stage also decided to invite non-Member countries on an equal footing with Member States. In addition, several international organisations have been invited to attend the meeting as observers: the EC (which thus far has not taken part in the preparatory Special Commission meetings), UNHCR, UNICEF and several non-governmental organisations including International Social Service, Defence for Children International etc.

It may well be that certain groups of States, in particular the EC States may wish to propose a rule to adapt the treaty to their special regional situation. This seminar may shed some light on this question.

On 29 May, we hope to have the treaty ready, that is, the final text. That does not mean that this text will immediately have the force of law. Each participating State will have to decide whether or not it will become a Party. States will be able to manifest their intention by signing the Convention, but the consent to be bound requires an additional step, that of ratification or accession. Ratification will make sense only if each country has reviewed its laws so as to make them compatible with the Convention. For a country like Belgium where, at least in the French community, the basic features of the Convention have already been introduced, this should not be a problem. Other countries, such as the United States and Canada, have already started to look at implementing legislation.

B Scope and structure of the Convention

The Convention deals with intercountry adoption, "adoption transnationale" (the French term is perhaps not the most elegant and may in the end be amended). The Convention does not define the concept of "adoption". There may appear at the Session a tendency to give preferential treatment to "full adoption", "adoption pleniaire", which leads to a complete termination of all bonds with the original family, complete integration into the new family and which is irrevocable, and a less prominent role to a limited "simple adoption", "adoption simple", which does not lead to a complete termination of all bonds with the original family, nor to complete integration into the new family and which is revocable. However, so far, there is no indication that any State would exclude simple adoptions. In fact, we are witnessing a quite interesting development: while in Latin America the trend is definitely to favour full adoption, much as it was in Europe twenty years ago, one sees, at least in some countries of Western Europe, openings towards simple adoption even for international cases. Therefore, it would seem wise to have the Convention retain a wide scope so that it can include different future developments.

The Convention applies to adoption, not to a foster placement. Some of the main features of the framework for international cooperation which the Convention establishes may lend themselves very well to other matters than adoption, in particular international foster placement, but this is clearly a matter for later study.

The Convention applies to intercountry adoption, that is (Article 2) the Convention applies whenever a child habitually resident in Contracting State is moved to another Contracting State to be adopted by a couple or a person habitually resident in that State. So, the decisive criterion for the applicability of the Convention is a person's habitual residence. This concept is not defined, and in this respect the Draft follows the tradition of the Hague Conventions such as the 1961 Convention on the protection of minors, or the 1980 Convention on the civil aspects of international child abduction, neither of which contains a definition of habitual residence. Habitual residence means the centre of living of a person and is basically a notion of fact. It is the place where a person has his or her work, school, main interests. A vacation or temporary stay in another country is not enough because, in that case, a person retains the place of his or her habitual residence at the place of his or her home.

The notion of habitual residence is a key notion to understand the mechanisms of the Convention. It will be noted that, according to Article 5, the decision as to whether a child may or may not be adopted is a decision for the competent authority, normally the courts of the State of origin, that is, (see Article 2) the State where the child has his or her habitual residence (see also Article 16). Similarly, Article 6 refers to the receiving State, that is, the State of habitual residence of the future adoptive parents, for the decision on suitability and eligibility of the parents (see also Articles 14 and 15). It follows that the nationality of the child, or of the prospective adoptive parents, or of the birth parents for that matter, has no role to play in the Convention. This is important for all our analysis of the European situation.

Another important feature of Article 2 is that is explicitly refers to the intercountry adoption as an issue of international mobility. It does not look at intercountry adoption from the static point of view either of the original situation in the country of origin or of the resulting position in the receiving country, but rather from the dynamic perspective of a movement from the one State to the other, from one culture to another. It is important to note that the Convention provides that an adoption made in one Contracting State will be recognised in all Contracting States (Article 22). That, of course, greatly serves mobility, because it will ensure that children and parents will have essentially the same legal status in all Contracting States. Obviously however, the Convention also has its limits in this respect. First of all, the Convention only applies to Contracting States, States that are Parties to the Convention. This is inevitable, but it makes the Convention vulnerable as long as only a limited number of States are Party to it. It is therefore important that it be widely ratified. Secondly, the Convention does not deal in detail with a situation where, pending the adoption procedure between countries A and B, the child, or the future adoptive parents, or both, move their habitual residence to another State C, be it a Contracting State or not.

The main aim of the Convention, in addition to providing for recognition in all Contracting States, is basically two-fold: it establishes a number of substantive safeguards (Chapter II) and it sets up a framework for international co-operation through governmental Central Authorities which may delegate some of their functions to private bodies. Chapter III deals with these Central Authorities and with the so-called accredited bodies and Chapter IV with the procedure. It is to be noted that, according to Article 21 of the Draft, functions of the Central Authorities may not only be performed by so-called accredited bodies, but also exceptionally by certain categories of private persons, but always under supervision of the competent authorities. Thus, limited provision is made for "private adoptions" (which since they are always supervised by competent authorities are not strictly speaking "private" anymore). However, any country of origin may declare that adoptions of children habitually resident in its territory may only take place through Central Authorities or accredited bodies.

The Convention does not deal with the criminal aspects of child trafficking, etc. but, by providing an orderly system for international co-operation in the matter of intercountry adoption, it can make a significant contribution to reducing abuses and criminal acts.

C Applicability of the Draft to the situation in the EC

How would the Draft Convention, if it were in force, apply to Europe? A few examples will illustrate the practical operation of the Convention. The first series of examples relates to intercountry adoption between EC countries and a non-EC State; the second series to intercountry adoptions among EC States.

1. Let us assume that Belgium and Ecuador (or Sri Lanka or Russia for that matter) are Parties to the Conventions but France is not, and that the adoptive parents first live in Belgium, and then move their habitual residence to France. This may happen during any of the following three stages:

a. before the request for the adoption is made; the Convention will not apply, even though Ecuador is a Party. Ecuador might, of course, take the position that it does not wish to deal with a State which is not a Party to the Convention. In that case, the adoptive parents living in France would not be able to adopt a child from Ecuador.

b. pending the adoption procedure; the Convention does not explicitly deal with this case, but one would hope that the Belgian Central Authority would in such a case continue to assume jurisdiction over the matter.

c. after the adoption is completed; suppose that the family or the child, a few years after the adoption move from Belgium to France. Since we assume that France is not a Party to the Convention, while Belgium is, the Convention's provision on recognition will not apply but, under the normally applicable French rules of private international law, the Belgian adoption would probably be recognised. However, other problems may arise depending on whether or not the child has acquired Belgian citizenship. This is not a problem caused by the Hague Convention which, as we have indicated above, does not consider nationality, but by EC laws which continue to restrict the movement of non-EC nationals on EC territory. If the child has acquired Belgian citizenship, there will be no problem. The child will be treated on the same footing as a French child: it may settle in France and obtain social security, etc. If, on the other hand, the child has remained a citizen of Ecuador, the child's legal position is less secure and there is no guarantee that the child may stay in France or qualify for social benefits there.

2. We now turn to intra-community adoptions. Suppose that prospective adoptive parents in France wish to adopt a child habitually resident in Belgium. If both Belgium and France are Contracting States, what are the implications? Again, there may be three different cases:

a. either the child moves to France, or the prospective adoptive parents move to Belgium, before the request is made; in this case, the Convention will simply not apply.

b. the child moves to France, or the prospective adoptive parents move to Belgium, pending the procedure; does this mean that the Convention ceases to apply because the situation becomes an internal one?

c. after the adoption, the family or child moves from France to Belgium; in this case, the Convention will certainly continue to apply. There is, however, a problem that may arise under Article 25 dealing with information concerning the child's origin. If the law of Belgium, the State of origin, provides for access to this information but the law of France, the State where this information is presumably held, does not, there is a conflict. According to Article 25 as it now stands, both laws have be to applied accumulatively, which means that the most restrictive law, in this case the French law, will control.

So far, little thought has been given to the problem of the effects on adoption of free movement of persons. The examples given above tend to demonstrate two things. First of all, it would seem very important that the EC States take a coordinated position with respect to their becoming a Party to the Convention, and secondly, some of the provisions of the Convention, in particular Article 25, need further study with a view to their suitability for intra-community application.

INTERNATIONAL PERSPECTIVES OF ADOPTION

Presentation of Chantal Saclier of International Social Service -Service Social International

The perspectives of international adoption are rooted in the world wide evolution of this phenomenon. Springing up as an answer to child welfare, international adoption has little by little found itself facing severe problems in the field of child welfare. Conventions have gradually been drawn up defining codes of principle and practice in this respect but we are faced with challenges for the future in putting them into effect.

Brief History

To understand fully the perspectives of international adoption, these must be set in the context of its historical evolution over the past fifty years.

It was only after the second world war, that is just over forty years ago, that international adoption developed on a large scale and was conceived as a means of permitting children deprived of their natural parents to enjoy the benefits of parental relationships. Around 1960, international adoptions were still centred in Europe, the only other country concerned at that time being Korea, for reasons of war. The adoption of children from Korea gave rise to a new phenomenon: the intervention of private charities onto the scene of international adoption.

At the end of the sixties, the phenomenon underwent a radical transformation: international adoption extended gradually to a world wide basis. In fact, the industrialised countries were then faced with the following situation:

- As the practice of adoption was more and more widely accepted, the number of children eligible for adoption in the industrialised countries progressively fell for social, medical and demographical reasons.
- The socio-economic situation of a great number of other countries began to deteriorate to an alarming degree. The traditional network of the extended family which, in the past, had taken responsibility for children who were without parents or the children whose parents had to work, began to collapse with the migration towards the cities and the situation of daily life in the peripheral areas of the cities. At the same time, the disappearance of the extended family structure was not generally compensated for by the setting up of effective social welfare systems. On the contrary, a decline in health services,including those of family planning, and the loss of all possibilities for education adapted to the needs of such persons, added to the worsening of the problem of the family. There was a progressive increase in the number of abandoned or virtually abandoned children in the developing countries.
- An interest in and an awareness of the situation in the developing countries began to emerge and of the responsibilities of the industrialised countries in this regard.

In this way:

- From 1975 onwards, a great increase in the adoption of Latin-American children took place.
- The adoption of children from South-East Asia by the United States, Canada, Europe and Australia grew rapidly following the war in Vietnam.

Since 1990, the countries of Eastern Europe have also become countries of origin. On the other hand, the number of children adopted coming from Africa and the South Sea Islands has up to the present time been relatively small, and this despite serious problems with children who are in a state of virtual abandonment or who have been orphaned through war or epidemics.

In the last twenty years, it has been established that:

- **International adoption has taken on a structural dimension.** It is no longer a specific response to a situation of war or to a catastrophe but has become a phenomenon allied to the structural problems caused by worldwide disequilibrium.

- International adoption which originally was a means of offering a home to children orphaned by war has progressively been transformed into a two-sided instrument: a means of offering a home to orphaned or abandoned children and also a means of satisfying the desire of a family for a child. Over the last few years, it has sadly, in practice, tended to **evolve principally towards satisfying the desire of an adoptive family for a child.**

Principles accepted at international level

As the phenomenon evolved and developed, international legal instruments have been drawn up by professionals concerned in retaining within the adoption process an element of protection for the welfare of the child. We hope that the 1990's will mark an important step forward in this area and will see the ratification, by a large number of states, of two conventions mandatory to those states who are signatories to them:

- The United Nations Convention on the Rights of the Child, which has currently been ratified by more than 120 States
- The Hague Convention on international co-operation and the protection of children involved in transnational adoptions.

The participation of more than 60 countries in the work of drawing up this convention gives rise to the hope that it will be ratified by a significant number of countries.

All the international instruments drawn up since 1960 which relate to adoption contain the following fundamental principle:

Adoption must be and can only be justified if it is a child protection measure. From this springs a certain number of fundamental principles.

The prime principle decrees that any protective measure taken on behalf of the child, and particularly of those who cannot be brought up by their biological family, should be determined by means of **research into what is in the best interests of the child.**

This means that, in applying this principle:

- The point of departure in arriving at a decision to adopt must be the child and not the adoptive parents petitioning for a child.

- The child must be considered as a person, as a subject and not an object. The market in the field of international adoption in which children are currently the stakes is unacceptable with regard to the rights of the individual.

- The treatment of the case of each individual child cannot be left to the potential adoptive parents, to the biological parents who are abandoning him or to unqualified intermediaries but must be carried out by services skilled in the field of child protection.

- The professionals who intervene in the adoption process must be influenced in drawing up their guide-lines for work and practice above all by the needs of the child and should not give priority to the demands of the future adoptive parents or to the requirements of the biological families who are abandoning the child.

All these matters refer as much to national as to international adoption. Indeed, in the countries of origin where there exists nationally a core of potential adoptive parents who have been identified, it has been noted that the approach and treatment of national adoption is beset by the same distortions as international adoption: it is often conceived as being the means of finding a very young, white child, in good health etc., and not as a first priority as a measure of protection for children in need.

The second principle which has been clearly stated in the United Nations Declaration (Arts. 1 and 3) and in the United Nations Convention (Art. 18), is that priority must be given to **allowing the child to be brought up in his own family.** Everything must be done by governments and by society to enable biological families to take care of their own children: financial help, employment support, training in the role of the parent, psycho-social assistance, sexual education, etc.

The argument often used to justify certain international adoptions, namely that the situation in the adopting family is economically more favourable than in that of the family of origin is unacceptable. When account is taken of the suffering caused to the child throughout the whole of his life by being abandoned by his biological parents, everything possible should be done to prevent the economic state of biological families forcing them to take extreme steps of this nature.

Unfortunately, at the present time, international adoption has become an integral feature of the problems brought about by inequality world wide. It tends to act as a substitute for more considered solutions to the rights of the biological families and of the children from countries which are in difficulty. Little by little it is becoming one of the symbols of the exploitation of the poorer countries by the richer. It is important to realise and to **develop this awareness within our society in the West** characterised as it is by the exertion of growing pressure on certain countries of origin to find in this way solutions to its "search" for children.

Yet another fundamental principle is that of **subsidiarity in international adoption**. That is to say that the choice of transnational adoption for a child must only take place after it has proved impossible to find a satisfactory solution for the child in his country of origin. This principle is based on the conviction that measures of child protection must be selected in such a way as to reduce cultural, social and psychological traumatism. If adoption is the protection measure contemplated for a child, then whenever possible, preference should be given to national rather than international adoption. Possibilities for national adoption exist in the children's countries of origin, among others in the countries of Eastern and Central Europe. During a seminar recently organised by us for participants from 17 countries from this region, it clearly emerged that nationally there were potential adoptive parents in the majority of them, certain countries even experiencing delays of several years for national adoptive parents. Nevertheless, it happens, as we have observed in Romania for example, that the pressure for international adoption is an obstacle to national adoption since parents in Romania are not in a position to compete with the financial attractions and the idealised image of foreign parents in the adoption "market".

Child protection must not be a source of material or of any other form of profit and all such trafficking should be rigorously opposed and punished. The child is a person whose rights must be respected and defended. **He may not be an object to be exchanged.** For some years now, international adoption has taken part in the process of supply and demand, in which the child has become an object for exchange between the adoptive and the biological parents and/or the intermediaries. This has led to progressive abuse and the development of genuine trafficking, in which adoption is not always concerned with those children who are in real need of adoption.

Children are often abducted by intermediaries: cases can be cited for example in Ecuador, in Peru and in Brazil where the mothers in certain shanty towns have to organise amongst themselves a constant watch on their children.

At the same time we reach the paradoxical situation in which adoption itself sometimes even becomes a source of abandonment for the children. Children are conceived to be "sold" for adoption. Let me repeat that: when you realise the moral suffering caused to the individual throughout his life by the fact that he has been abandoned by his family of origin, how can it be claimed that such schemes ensure the protection of the child, that they respect the rights of the child and of the individual person?

The example of Romania is significant in this respect. After a few months, the adoption process neglected the children in the orphanages since these children did not match so well the expectations of the adopting families, and turned towards young children living in their biological family. By exerting psychological pressure on the mothers and by negotiating with the biological family, children who in other circumstances would have lived with their own family, have been adopted by foreign families. It is also equally sure that certain children have been conceived with a view to their being "sold" for international adoption.

Romania is not of course the exclusive exerciser of such practices in which the pressure exerted by the size of the demand from foreign adoptive families, prepared to pay for a child answering to their expectations, the corruption of a large number of intermediaries and professionals and of a certain number of the biological families, the vulnerability of many biological families in their country of origin, are in a position to transform international adoption into a mechanism which violates the rights of the child.

The guarantees and norms recommended in order that the welfare and the rights of the child should be respected, should be applied to national as well as to transnational adoptions.

Children in need of adoption

All adoption must have the child as its point of departure. It should not be granted until proof has been established that adoption is the most recommended measure of social protection for the child and that the adoptive family is suitable for that child.

The current situation embodies several features:

On the one hand:

- The number of children in need of adoption in the world is lower than the scale of demand of adoptive parents.
- Many of the children in need of adoption do not correspond to the profile of the child whom the adoptive parents wish to receive and this is particularly so with regard to age, physical or ethnic characteristics and conditions of health.
- The children in need of adoption who show the characteristics most frequently requested by the adoptive parents - children of a young age, with no physical or mental handicap, no serious illness, of no particular ethnic type - can usually be adopted in their own country. A potential number of national adoptive parents exist almost everywhere for this type of child.
- The children affected by international adoption must therefore essentially be those children who, because of certain characteristics of age, or of certain physical, psychological, medical, family or social, or ethnic characteristics, have special needs or a profile of a type knowr to be more difficult to place at a national level. If, in the case of these children, the principle of priority for national adoption should also be applied, it is clear that international adoption can have a role to play. In fact, it can often offer, more easily than in the country or origin, a medical or psycho-educational infrastructure

appropriate to the needs of the children. It may also be a means of avoiding deeply-rooted racial forms of discrimination often found in the national context of the child's country of origin. Equally, through the more favourable economic conditions prevailing in the country of reception, it can facilitate the adoption of brothers and sisters. Nevertheless, such adoptions need to be framed with particular care since they encompass more risks for the child and for the family who takes him in.

On the other hand:

- The answer to the abandonment of children is still too often institutionalisation. The basic problem of the institution is that it does not enable the psychic, emotional, social and intellectual development of the child. In a number of countries, these establishments are often run by staff who are badly trained, badly administered and badly controlled.
- Many children, who are not orphans, live nevertheless a life of abandonment or in a state of virtual abandonment within such institutions which ensure them no protection of their fundamental rights. These children are in general not eligible for adoption in a lawful way through the absence of their biological parents or because such parents have refused their consent. There are no or very few trained staff or adequate structures to carry out research into the background of these families and to undertake the psycho-social studies necessary for determining appropriate measures for the protection of their children.
- In a certain number of countries, there is no real willingness to remove the children from the institutions to offer them a family environment (whether in their own family or in a substitute family). This may be either because the institution is regarded as a system acceptable to national idiosyncrasy or because the staff in these institutions fear losing their jobs or because the abandoned children are persons rejected by society or again because no-one dares bring the rights of the child into conflict with the rights of his parents. It is generally caused by the ignorance or by the non-recognition of the needs and rights of the child.

Challenges for the future

A huge effort needs to be made to change these attitudes of mind, not only in the countries of reception but also in the countries of origin. National laws need to be revised, structures created or improved, staff training organised, information and awareness campaigns launched to ensure that the principles which have been defined are respected, to promote effective child protection in this regard and to enable a better response to be made to present day needs. We are currently faced with two main challenges.

The child, as a person, must be reinstated in the centre of the adoption process. He must no longer be the excuse for it. Pressures on adoption must be reduced both in the countries of reception and in the countries of origin.

In the countries of reception:

- Education of public and of political circles needs to be extensively developed. We must rigorously oppose the development of a conception of the right to the child. It is **the right of the child** opposed to the right to the child. Adoption must not in the first instance be conceived as the means by which a family may satisfy its wish for a child but as a measure of protection enabling the child to enjoy the benefits of a family structure. Deviation occurs from the moment that adoption is seen as a support to families in their search for a child.
- The decision regarding the attributes needed by families to qualify for the adoption of a child must be entrusted to competent services whose staff have been specifically **trained** for this task, both in concern for the child's protection and in respect for the families. Preparation of the parents for adoption and post-adoption support, both for the child and for the family, must also be set up.

- Laws must ensure that international principles are respected and enable international adoption to respond to the needs of the children concerned: they must for example not prevent the international adoption of older children or those suffering from serious illness, as is the case in certain countries of reception, including some in the EEC.
- Education of the public and policies which see international adoption as a measure of child protection which is subsidiary to the national solutions of the child's country of origin must be developed.
- National policies must participate in reducing inequalities in the world today and the consequences they have for the families and children in those countries which are **currently** disadvantaged.
- Individual societies must support actions aiming to prevent abandonment in countries of origin and to encourage assistance for the biological families rather than resorting to international adoption.

In the countries of origin:

- Campaigns at all levels of society should be mounted to inform and to heighten public awareness of the psychological and emotional needs of children and on the rights of the child.
- National policies should give **priority to the eradication of abandonment.**
- Research into solutions to the child's problems should be encouraged both within his family of origin and within his country of origin.

To achieve this:

- The research into, the approaches to, the assistance and support of biological families should all be integrated into programmes for the protection of children who are in a state of abandonment.
- Necessary structures should be set up together with the appropriate training of staff (social workers, psychologists, and family therapists in particular) to work with those families who in global policies for child welfare are deemed to be in the greatest need.
- Policies on national adoption adapted to meet the needs of children at risk should be developed: the promotion of national adoption; the fight against ethnic, racial or religious discrimination; education in the conception of adoption as a measure of protection for the child which should respond to the needs and distinctive characteristics of the child.
- Family alternatives at a national level should manifest the same qualitative norms as those recommended at the international level: selection, preparation, follow-up or support for the adoptive families; matching, preparation of the child for his adoption, education of the adoptive parents in the right of the child to learn about his origins etc.
- Children in a state of abandonment should not have to be kept for year after year, even for the whole of their life, in institutions. Education is the right of the child and a greater awareness on the part of the professionals concerned of their responsibility to offer a family environment to the child, preferably within his family of origin, or where this is not feasible, within a substitute family, must be developed. Laws must be enacted to facilitate the resolution of those problems surrounding the legal adoptability of children who are in a state of abandonment. We must also fight against the tendency of institutions for self-perpetuation and for cutting down on research into family alternatives for the children who are in their charge.
- The right of the child must prevail over the right of his biological family when there is a conflict between the rights of the biological family and the best interests of the child. The biological family who are abandoning the child, if they are known to be inadequate and not keen to bring up their child, should not be allowed to obstruct research into the

matter or into the choice of a family alternative for the child which is being undertaken by qualified child protection services.

- A study should be made of every child who is in an institution and of his family background in order that plans for his future may be made, tailored to suit his particular needs. It is only on the basis of such a study covering all the psychological, medical, legal and social aspects that an adoption can be considered as being the most appropriate measure of social protection for the child. It should also be encouraged to sketch out the profile of the type of adoptive family likely to suit the child. For this it is necessary to set up or to strengthen suitable professional structures and to ensure appropriate training for all those involved.

To ensure that the needs (children who are genuinely in need of adoption) and the supply (families who are known to be suitable for adopting a child) coincide.

It is a question of fighting against the current paradoxical situation in which

- Many children spend the whole of their young lives in an institution with no link with any family.
- An even greater number of families apply to various intermediate agencies for help in identifying children for adoption who are increasingly rarely children who are in need of adoption.

To do this, it is imperative to:

- Channel national and international adoption through services which are skilled in matters relating to child protection and trained in understanding the problems of adoption.
- Fight against adoptions from independent sources.
- Sustain programmes aimed at removing from the institutions children who are orphaned or in a state of abandonment who can be reintegrated into a family environment, at the same time seeing to it that actions taken contain all the requisite safeguards for the child.
- Promote with the competent authorities:

  Political willingness within the countries of origin

  Political willingness at a national level within the wealthy countries, together with financial and professional support for the countries of origin

  in order that services skilled in the protection of children who are at risk or in a state of abandonment may be organised or strengthened.
- Encourage the ratification of the United Nations Convention on the Rights of the Child and the Hague Convention on international co-operation and the protection of children involved in transnational adoption. Promote and support their implementation. Take care that such implementation is entrusted to multi-disciplinary bodies, not limited to the legal powers alone but working closely in association with those social, psychological and medical authorities, which are also basically essential to a solution of these problems.

  The future, therefore, presents us with challenges which must be taken up by all those who, at one level or another, have the power to act, to inform and to heighten public awareness. Indeed if, in the course of a seminar of professionals working in the field of adoption, it is possible to come to a degree of consensus, this is not at all the case outside this setting. The principles and practices desirable for the child, of which I have just given account, are far from being widely known, understood, and shared in the civil and political arena and even within the structures and professional circles concerned with the protection of the child. This is as equally true in the countries of reception as it is in the countries of origin. It is, therefore, of importance that we are aware of this and that in the field of adoption we all participate in the promotion and in the improvement of the protection and of the defence of the rights of children.

Case history from Professor Dr. Rene A.C. Hoksbergen, of the University of Utrecht, EFCW (The Netherlands). Safeguarding children

Some months ago I came across the case of a placement of siblings from South America at the age of 6 (girl) and 3 years (boy). They had been in placement three years.

The problems concerning this placement were:

1. *The parents first saw these children in a home for children in South America. They know hardly anything of the medical and psychological situation of the children; though immediately when the parents saw the children, they noticed burns on their skin. These burns seemed to have been caused by cigarettes and matches.*
2. *The preparation done by the adoption organisation in Holland was - according to the parents - chaotic, and not in any sense relevant for the placement of these two older children.*
3. *Rather soon after the arrival in Holland, the children started self-mutilating and demonstrating extreme attention seeking behaviour. The parents went to a paediatrician one month after placement and on several subsequent occasions.*
4. *It can be difficult to distinguish between self-mutilation and non-accidental injury (child-battered syndrome). Several caretakers and paediatricians became involved in this case. Some have decided it is a case of self-mutilation, and some believe the children are injured by the adopters.*
5. *In the meantime, and within the first year of placement, the children were taken from the parents.*

What lessons can we draw from this experience?

First, in intercountry adoptions we experience two tensions for the more ideal and, in fact, professional way of placement:

A. *The tension and necessity to keep costs as low as possible for the adoptive parents, intercountry adoption is costly enough already;*

B. *The lack of time in the country of origin to check whether it will click between child(ren) and the adoptive parents.*

In this case we lack:

1. *An extensive medical and psychological report with relevant information about the life history of the two children - a rather superficial medical report was present.*
2. *Clinical observations and reports from the caretakers in South America.*
3. *Recommendations from the South American caretakers concerning the psychological demands to be expected from the adoptive parents.*
4. *A period of introduction and adaptation in the country of origin, to allow all parties to ascertain whether children and family had a good chance of settling together.*

Case history from Jeanette Conradi, of ISS Germany, representing EFCW (Germany).
Adoptive children from the former Soviet Union

A Recent Development in Germany Concerning Intercountry Adoptions

How can we safeguard these children?

Since the political changes in Eastern Europe, there are an increasing number of official and individual contacts between the Republics of the former Soviet Union and Germany.

As a result, the German branch of International Social Service has been receiving requests concerning Russia, the Ukraine, Estonia, Latvia, Lithuania, Byelorussia, Georgia, Kasakhstan, Uzbekistan and Kyrgystan, many of which are about intercountry adoption.

Apparently, childless couples in Germany who have so far not been successful in adopting a child have now discovered "a new market"; some travel to the countries and adopt a child there - more or less legally.

According to the Family Law of the former Soviet Union which is still in force in the above-named countries, except for Estonia, Latvia and Lithuania, the Executive Committee of the Department for Minors' Affairs of the local Militia issues the adoption decree. Then a new birth certificate for the child is obtained from the local Registrar's Office. With this, the adoptive parents can apply for a new passport and subsequently leave the country and enter Germany with the child. Although the consent of the Ministry of Education of the child's birth country is needed for intercountry adoptions, this is often not obtained because many of the local authorities, especially those in remote places, do not know about this regulation yet.

Adoptive applicants may have private contacts in the named countries, either as host parents of a child suffering from the consequences of the Czernobyl disaster, or from aid transports to children's homes or other social institutions.

When parental rights are withdrawn from the parents, and the children are then placed in an institution, the superintendent is usually appointed guardian for such children. When one of these is adopted, the consent of the natural parents is not needed. Nor is this necessary if the parents of children in an institution have not shown interest in them for more than one year. The superintendent will investigate whether this is the case, and he will then give a written report on the situation to the Executive Committee.

In this connection, one can understand that the superintendents of orphanages have an important position and are susceptible to bribery. Well-to-do foreigners who present themselves at the orphanages are not the only ones to attempt to get hold of a child by means of money and gifts.

It is known that the housing shortage in Russia is very serious, especially in the big cities, and it happens repeatedly that Russian married couples adopt children just to be entitled to get a larger flat and, as soon as they have moved into the flat, the adoption is often cancelled.

Due to the tremendous poverty in the countries named, there are still parents - especially unmarried mothers - who feel that they are unable to take care of their children. In St. Petersburg for instance, it is frequently reported that new-born babies are found in garbage cans; it also happens that new-born babies are sold to foreigners, either by the parents themselves or by organisations.

The governments and the public of these countries are extremely reticent about international adoption, as the birth rate has never been so low before and is still decreasing. Estonia, Latvia and Lithuania introduced new adoption laws in 1992. In Moscow, governmental and non-governmental adoption agencies have been established in order to control adoption placements. However, there is still very little structured co-operation with adoption agencies and youth authorities abroad, and numerous illegal or half-legal adoptions are still taking place.

CHAPTER II

APPROVAL AND PREPARATION OF APPLICANTS TO ADOPT

Presentation by Mrs. Birgit Prehn, (representing EFCW Denmark) from Social & Health Administration for the County of Aarhus, Hojbjerg, Denmark.

My case history (see below) is about approval. Before one can adopt in Denmark, one must be approved. But - by whom? and why?

In Denmark, where Parliament makes the law, it is up to the Ministry of Justice to elaborate the statutes and give out the instructions, directives and guidelines along which agencies authorised to work in the field of adoption must work. Such organisations are licensed for a period of four years by the Ministry.

However, it is not the agency who decides whether a couple are to be approved or not. They take the application to the County Board of Adoption (appointed by the Ministry of Justice in the regions). The decision-makers on this board are: a County Medical Officer of Health, a lawyer employed by the Social Section in the County and a social worker. A two-thirds majority is all that is needed for a decision. However, if the County Board feels uncertain about a couple they can seek the help of a specialist.

The approval process is carried out by social workers within the Social and Health Administration for the Counties, who seek out the following information:

Age of applicants, (minimum of 25 years of age, maximum age of 40 years older than the child to be placed). The applications should be married (although since 1984 single people may also be approved). Couples should have lived together at the same address at least three years and no couple can adopt more than two children.

Social conditions to be satisfied include:

- financial circumstances
- the applicants home
- police checks
- physical and mental health
- individual character profiles
- motives for adoption
- attitude to childlessness
- how the couple will communicate information about adoption to the child
- their knowledge and experience of children of different ages

In my case history, nothing in the preliminary investigation predicted any problems concerning the integration of a baby into their family.

The baby placed was seriously underweight, and developmentally delayed. The couple's associates, family and friends as well as they could become a relaxed unit. The local health visitor gave a lot of support and advice to the couple during the first year.

Once the adoption went through we did not expect to see the couple for another two or three years. So we were surprised to see a new application for approval for a sibling so quickly (less than two years after the baby's placement).

Nevertheless it is quite legal to start another application after only nine months. We transferred information from the first case, included all the new information on their application and concentrated on how the applicants themselves felt they had managed since the arrival of Kim.

Their view was that Kim was now well integrated and both she and they were all ready to have another baby in the family.

But the social workers assessment was different and the County Board referred to a child psychiatrist to obtain a specialist's view as to the applicants ability with regard to another baby. His assessment concluded that at present the adoptive parents were not meeting all of Kim's many needs and that it was therefore necessary for them to concentrate more on this, and that there was therefore too little physical and emotional space for another child. The County Board did not approve the second application.

The parents, who will have access to all the latest documents and discussions with the child psychiatrist, are appealing against this decision to the Board of Appeal.

We feel that the adoptive child and adoptive parents each have a deep sorrow. The couple because they never had the biological child they wanted so much, and the child because her original mother did not keep her.

It is however up to the adoptive parents to create a happy family life. To do this they must be able to handle and absorb the child's sorrow as well as their own for many years. They must also be ready to talk about the original mother, without jealousy and with respect - even when they are tired or sorry for themselves, and when the adolescent transforms this sorrow into aggression.

This is a mission of life.

Nobody can demand to obtain a child, but a child is a blessing you may receive.

The applicants in this case are themselves confused. They do not understand that Kim needs more care, alone with them. To bring another child into the family would make Kim's situation ten times worse - and would not necessarily bring to the couple the child they are still seeking.

Case history from Mrs. Birgit Prehn from Social & Health Administration for the County of Aarhus, representing EFCW (Denmark)

Back in 1987 a young Danish couple who could not have children of their own decided they wanted to adopt. Six months later the preliminary examinations began, collecting information about the applicants, interviews by social workers, visits to the home, medical histories.

Nearly a year later, the County Council approved the applicants as potential adoptive parents and gave them permission to adopt a foreign child up to the age of thirty-six months. The approval was, as always, only given for one year. After this year, no proposal having been made, the approval was extended for a second year and during this period, a proposal was made by the couple to adopt a child aged four years and one month, suffering from TB and possibly other illnesses. After a great deal of delay, the authorities decided to refuse this matching, but extended the period of adoption for a third year.

The couple now applied to adopt an Asian baby girl. Social and medical evidence revealed that she was seriously underweight, and suffered from an intestinal disease. Despite this, the adoptive parents insisted that they wanted to adopt her, the application was approved and the child was handed over to the couple.

Social workers and health visitors who regularly visited the family noted that the girl (let us call her Kim) was making good progress. Nevertheless, she still had problems thriving, suffered from frequent infections, and was reserved in the presence of strangers. The adoptive mother was clearly experiencing some difficulties and stresses in handling her problems. Nevertheless she decided to return to work and put Kim into day care with four other children.

Later, the couple came forward for permission to adopt a second child. Again, much time was taken in collating information, home visiting and a referral to a child psychiatrist, to assess Kim's development and the effect that a second adoption might have on her. The child psychiatrist concluded that Kim had serious behavioural problems, and suggested that the parents did not have the necessary resources to cope with her and a second child. The application was refused.

Case history from M. S. Molitor from Ministere de la Famille et de la Solidarite, representing EFCW (Luxembourg)

In order to place my contribution in its proper context, I should point out that I am employed in a Ministry (Family Affairs) which is responsible both for family placements and for placements with a view to adoption. In the course of my work with the State controlled family placement services, I am faced with two options which tend to be diametrically opposed: those where the family placement is kept strictly separate from the adoption, others which tend to prepare for adoption whenever possible. I tend to favour option one. I think it better that the services dealing with the problems of adoption or of family placement should be quite separate. It seems to me important that the child and his or her true parents should be clear that there is no confusion between two different projects and that the parents who are offering their home should be aware of the difference in approach.

A young adult came to see me to complain that he had been taken into a family home with adoption in mind without his views having been sought. I hear the same complaints from the original families. This in no way frees me from my concern to prepare families to choose adoption for their child.

The most difficult job is that of controlling the preparation and selection of prospective adopters. There exist at present no regulations for transnational adoptions in this respect. There is indeed considerable opposition. Prospective adopters manage to convince political opinion that it is not the place of the specialist to block such adoptions.

The majority of adoption services are formed by adoptive parents who also share this opinion and who have possibly met with opposition in their own approached. It is true that those who select the prospective adopters do not always succeed in showing the candidates the respect they deserve for their plans or even in their confusion. The selectors do not willingly consider that there could be any case for appealing against their advice. Legal authorities demand similar conformity on the part of other non-legal authorities; yet it is the legal authorities which can take effective or deterrent action.

Whilst waiting for progress in these regulations, it seems to me important to give candidate adopters the possibility of sensing that discussions with other people about their own particular cases can be useful. The great majority of candidates understand this. It is those who present the most objections who are also the most fiercely opposed to any regulations.

CHAPTER III

MATCHING OF CHILD AND FAMILY

"Matching" the needs of the child and of the family

Presentation by Yolanda Galli, Psychologist, Italy.

"Matching" has always represented and still, in most countries, does represent one of the least considered phases in the adoption process.

We should ask ourselves two questions when considering this problem:

1. In which family can this child, with his own special personal, family and cultural background, enjoy the greatest prospect of overcoming the experience of losing his original environment; in which family can he grow up and develop his full potential?

2. Which child can this adoptive family, with its own individual, conjugal and family background, help to raise, respecting his own individuality yet recognising him as an integral part of their own family?

In general, for national as well as international adoption, the methods used to achieve a "match" display a lack of coordination in the actions of those who intervene on his behalf which has grave repercussions for the child, the family and even for those professionals who will be responsible for supervising the integration of the child into the preadoptive placement family. The course of the adoption (from original enquiry right through to final realisation) seems, in most cases, to be rather disjointed; it brings together several participants, professional and non-professional; it favours the appearance of forms of scission and projection. In the eyes of the couple who are seeking the adoption, the world seems to be divided between the good (those who help in placing the child) and the bad (those who ask questions, cause delays, say no).

In Italy, in recent years, we have seen a disturbing increase in the number of adoption failures[1] and that, in my opinion, is due to the fact that we, the professionals, working in the field of adoption, have still not sufficiently understood how to help the children and the families in the initial stages of their adoptive relationship but more particularly because the idea of prevention is not always clear to us: a most important idea when dealing with children and adults who have in their past experienced sometimes catastrophic distress through abandonment, loss and death.

Attention given to "matching" can frequently reduce some of the elements leading to adoption failure by avoiding the pain of further separation and further loss for the children and the families.

Many times, in the course of my work, I have heard it maintained that all children are suitable for adoption and that all couples are suitable as adopters; all that is required is the desire to do so and a lot of love to give.

I do not believe this to be true. On the contrary, this way of thinking is a negative and idealistic process which is activated when a person becomes emotionally involved or in particularly severe conflictory situations. Although these mechanisms are essentially archaic, they are still to be found in our clinical work, even among adults or within groups who attempt to avoid the confrontation posed by such extreme and severe conflictory situations.

These are the mechanisms which can lead to behavioural difficulties or to explosive situations causing intense suffering to those who are affected by them.

When one moves on to more complicated "matchings", as for example , when dealing with the adoption of the older child (6-10 years) or when dealing with siblings from the same family who are going to the same or different families or when dealing with children who are suffering from severe physical or psychological problems, particular attention must be given to the emotional repercussions which an adoption might have in such cases.

Psychotherapeutic work with children and adoptive parents has enabled me to observe that certain children may find that living in a placement family is an even more painful experience *than that of living, for example, in an institution since the normal dynamics of family life can* cause anxieties to reappear in children who, with a great deal of difficulty had succeeded in controlling and suppressing them.

For those children who are particularly inadequate, or for those who have particularly pathological or destructive parental images, it may be easier to grow up and develop within a small community. These institutions, thanks to their organisation and to the training of their staff, are better able to withstand the projections and the aggression of these children without turning against them, like a boomerang, as so often happens within a family.

For the adults, learning the role of adoptive parents, the relationship with their child causes them to reconsider their own childhood narcissism, permits a re-enactment of their childhood "self", implies a resurgence of unresolved conflicts, long since put into abeyance. If these conflicts are too intense, or if they give rise to too much pain, the child may be considered to be a source of anxiety and, as such, dangerous.

This is of extreme importance in the case of a couple who have lived childless for a number of years and who, at a certain point, might experience the pressing need for a child, a child perceived as the solution to the problem of ensuring their own survival. Yet it is important too when the infertility of one or other of the couple has not been sufficiently worked through. In general, it is a question of people who do not enjoy a good relationship with the world of their own inner selves, who are not mentally malleable. The relationship with the child is more difficult because they have difficulty in distinguishing what concerns themselves and what concerns the child.

All these situations demand our particular attention.

We shall now attempt to consider the significance and the repercussions on the emotional plane of this specific phase of the adoption process.

These questions, which are to be found in a more or less pronounced way in every adoption, should be taken into account at three crucial moments in the adoption process:

- during the enquiry into the individual psychological state of candidate couple and of the couple who have petitioned for the adoption
- when possible at the time the child is under observation and the study of his past history, his strengths and weaknesses is being undergone
- at the time that it is (theoretically) decided which family will be offered to the child and, finally, at the time of the interview in which the couple is told about the actual child although the child himself is not there.

The methods followed for "matching" vary according to whether it is a question of national or international adoption and, especially in this last instance, it is dependent upon the legislation currently in force.

What points of information from a methodological point of view are necessary or fundamental for those who must decide on the family to be offered to an individual child? As far as the adoption of a child in his own country (national adoption) is concerned, the possibility of knowing the couple and the child, their background, their needs and their weaknesses is very important; one can then attempt a gradual integration, offering more or less continuous support to the new home so as to reduce the risks of failure.

In the case of an international adoption, the situation is different and more complex.

The variables to be considered are more numerous and relate, as I have already indicated, to legal, cultural and professional criteria.

When the couple arrive in the country in which they wish to adopt a child and apply to the public or private organisations (courts, institutions, lawyers or other intermediaries) without resorting to authorised agencies, it is generally the couple themselves who "choose" the child according to the characteristics which they consider the most important (race, colour, age, sex) and it is the intermediary who decides when and how to fulfil these desired claims. The intermediary is sometimes pressurised into this by the attraction of personal gain (for himself or for his institution), at other times he is pressurised by the desire to achieve a "better future" for one of a vast number of children. In this case social considerations tend to prevail: on the one hand the future well being that the couples can offer to the child and, on the other, the large number of children, more or less abandoned who are accommodated in the institution.

When, on the contrary, in the child's country of origin or in that of the couple, we find organisations or public institution, - or private institutions under public control - which are responsible for "matching" as a step in the adoption process, the probability increases that considerations in respect of the psychological strengths and weakness in both the children and the adults will be taken into account.

If the "matching" is effected by organisation or institutions in the child's own country, it is essential that the professionals who carry out the psycho-social study of the couple are enable to assemble and document both the social background as well as the psychological characteristics of the adults. This will allow those who know the child to build a relationship.

On the other hand, if the "matching" takes place in the couple's country of residence, the professionals responsible for finding a family for a given child, should request from the organisations or institutions from which the child comes all information concerning the personal and family history of the child, the psychophysical characteristics which relate to his development; all the information necessary for selecting the family - from amongst all those suitable as adopters - to which the child will be offered.

Although some countries take particular care over this specific phase of the process, the majority of European countries during the period which runs from the end of the psycho-social sessions up to the arrival of the child, the couple are left on their own with insufficient attention being given to the emotional repercussions particular to such a moment.

For the couple, the problems of "matching" are of a different type: in my opinion, the most striking are the points of correspondence and difference between the child desired and the actual child.

When a couple during discussions over the "matching" is offered an actual child, is the professional concerned given the opportunity to assess the value of stopping or of continuing with the plans for adoption which will finally lead to a meeting between the couple and the child.

When, during the interview in which they are introduced to the child, the professional notices a lack of emotion, negative emotions shown in expressions of doubt and uncertainty or there is partial refusal ("he is tall, I imagined he would be smaller", "he is very dark", "this is a boy, I had been thinking of a girl", "he is from South America, I had asked for a young Asian girl, they are so sweet"), it is important to stop and think.

In my experience, these situations reveal either an indicator that there is a risk of failure, or the presence of an important relational point of conflict at the very beginning of the adoptive relationship or during the progressive crises which will follow. At the time of the "matching", a phase is initiated in which the child is conceived of, pictured but as yet cannot be contacted. From a psycho-dynamic point of view, "the child offered is an external object who must now be linked to the child who is already present in the internal world".

The emotions which the prospective child arouses in his future parents are very intense: longings, fear, anxiety, pleasure, hope, all mixed and whirled up together and often at this moment, it becomes difficult to arrange one's thoughts in order. It is only later that a feeling of depression is felt: this is when the parents realise that the child exists but that he is over there, at a distance and that before they can be brought together they still must wait for a time and cover a great distance - many thousands of kilometres - before being in a position to "touch" him.

The fact that certain candidate adopters who have waited for many years for the arrival of a child ask for time to reflect before accepting the child who is offered (in my experience in about 250 "matchings") is also an indicator of risk. This not only arises with regard to siblings (3-4-5 brothers) or with regard to a child who is ill or handicapped. I believe that "matching" is important step in the adoption process which we must consider and carry through in a clinical way. I believe also that the psycho-social study of the couple is of even greater importance.

As adults, the candidates have progressively reached maturity. They must be capable of devoting themselves to the child, not only to his upbringing and training as the law normally demands, but above all with the deliberate aim of atoning for the pain and the suffering which for the child are the consequences of the rejection which he has experienced.

[i]By adoption failure, I understand a break in the relationship between the adoptive parents (adopters) and the adopted child (adoptees) - (children sent back during the period of preadoptive placement) - or children withdrawn from the adoptive family in compliance with a decision of the Juvenile Court.

Case History from Ms. Tassoula Koussidou, "Metera" Babies Centre, representing EFCW (Greece)

Ms. A was born, in the late Forties, in a small Greek community. Being a child out of wedlock, rejected by her mother and siblings (who were all born in marriage) she spent her childhood in an orphanage and her teens working as a housemaid. Feeling emotionally and financially deprived, and having no links with her family, she emigrated to Germany at the age of 21 to seek a better life for herself.

By the age of 33 she had given birth to two children by different fathers in Germany. Neither of the fathers remained involved with the family and Ms. A, who had suffered from psychological problems, returned to Greece with the children. It was obvious that she could not cope with either of them properly, and the case came to be referred to a babies' centre, where plans were made to place them with a foster family B. Ms. A was diagnosed as having a 'chronic schizophrenic psychosis' which precluded her from assuming care for her children.

The foster family consisted of a 60 year old mother and her 28 year old single daughter and the two children settled in quite well, despite the sudden separation from their mother and the lack of adequate preparation. Both foster carers were very affectionate, took good care of them and handled their original reactions in a constructive way. The children kept contact with their mother, and the agreement was that this would be a temporary, medium-term fostering placement.

Ms. A, now hospitalised, was supported by various agencies to get a pension from the German State, to buy an apartment, and to attend workshops and group sessions at a day psychiatric department where she might meet other people.

The case was reviewed regularly and as the children grew older, it was obvious that they missed a father figure in their development. When the daughter of family B was to be married, and there remained the prospect that the two children would then be left with a quite old foster mother, it was decided to explore the possibility of an adoption 'with contact'. It was first discussed with Ms. A and although she initially felt threatened by the idea, she eventually grew quite cooperative about it and gave her consent. The next step was to discuss the possibility of a 'new home' with the children. Working through a psychologist and social worker, they were quite ready to have new parents, provided they could keep contact with the foster family, about which there were assured.

The adoptive family were carefully chosen. The spouses were in the late forties, had a stable marriage, and had a biological child who died at the age of eighteen from a chronic disease. They were therefore familiar with the needs of children, and had the means, time and energy to cope with two young ones, while being sensitive to the requirements of their natural mother to keep in touch with them.

Ms. A was introduced to this family and accepted them willingly, even advising her children that she wanted them to go there. The children themselves were prepared for their move by sharing information, through photographs and meetings, as well as visits to the adoptive home. For the family B the move was perhaps most traumatic, especially the daughter, who felt she had not been given enough time to adjust to 'losing' the children. Family B would have liked to have kept the children permanently, and the daughter even discussed adopting them, but it was felt these plans were unrealistic, that the whole process was taking too long, and that some limits had to be placed on the transfer procedures.

When the two children were placed with Family C, the little girl was eight years old and the boy six. The legal adoption took place a year later, with the mother's consent. Today, the children are well adjusted to their adoptive family, and fully accepted and integrated, and continue to have regular contact with their natural mother. Contact with Family B has gradually weakened, as the adoptive parents feared that the foster parents were over-involved with the children.

Case History from Ms. Christine Hammond, British Association for Adoption and Fostering, representing EFCW (U.K.)

Peter (9), Anna (7) and Thomas (4) need to be placed for adoption. Until two years ago they lived with their mother Sarah, a single parent. She put a lot of effort into keeping the family together, but their lives with her were not always easy. Peter, in particular, was expected to take a lot of responsibility for the younger children as well as helping his mother, and he reacted to this with increasingly aggressive behaviour, as well as running away from home on several occasions.

Two years ago, Sarah, the mother, suffered a serious illness from which she will never recover completely, and which meant she was not able to care for the children, who went to live with a foster family. It was hoped that they would be able to stay together in that family until Sarah was able to accept them again, but Peter's behaviour became so difficult that he had to be moved to a residential unit. There he has much improved, and wants to rejoin his brother and sister. The adoptive family, however, fear his disruptive behaviour will unsettle them, and are not prepared to take him back, though happy to organise regular visits.

Although Sarah will never again be able to care for the children, and there are no relatives who would be willing to help, she does not agree to a plan for adoption. The courts will, therefore, have to decide whether adoption should go ahead without her agreement. The Social Services agency responsible for the children have been looking for suitable adopters for six months, but still have no possible families to consider. A voluntary adoption agency in a neighbouring county has recently approved a family they think may be suitable, and who would be willing to take the three children together.

These parents are committed Christians of white British origin, but already have one adopted child, who is 14 years old and black. Peter's father was of Asian origin and the Sikh faith, while Anna and Thomas' father was white and of unknown religion.

An alternative placement plan has been offered through the Exchange service - two families who live quite close to one another and are willing to keep in touch regularly so that the children do not lose contact with each other. The family who would take Peter consists of a mother of white British origin, a father of Indian Sikh origin and their daughter, who is three years old. The adopters who would take Anna and Thomas are of white British origin, and have no children of their own as yet.

Issues

The agency has now to make one of three choices:

a) wait a little longer in the hope that a suitable family will be found for all three children together;

b) work with the voluntary agency, whom they know and trust, to place the children together in the family they offered, recognising that this may create problems for Peter in developing his own identity and his understanding of his heritage;

c) place the children in two separate families through the Exchange Service. As well as splitting up the children, this involved working with an agency some distance away, that they do not know. The main advantage is that the family is likely to offer a more suitable environment for Peter.

Case History from Mrs Liliana Paissan, Psicologa del equipo de Maci Madrid, representing EFCW (Spain)

Daniel was born in 1975 and taken to an institution by a social worker at the age of nine when his mother was reported for her inability to cope with child care. The family contained two older sisters as well as Daniel, and the mother suffered from psychosis which forced her to give up her job. A year later the courts suspended his mother's parental rights, but allowed her to visit him, which she did on rare occasions.

During these visits, it was Daniel who supported her, noting how nervous she became, and how obsessed she was about herself and her condition. Daniel himself was easy-going, and much liked by the staff, who were interested in having him adopted. Daniel, however, was concerned of the effect such an arrangement would have on his mother, and of 'betraying' her and 'abandoning' her by entering another family.

When he was eleven, however, he finally agreed that he should leave the institution for another family. Two couples were chosen as potential candidates. The first, who had initially sought a very young child, agreed for him to visit over a week-end, but it did not work out. They proved not to be true foster parents, but wanted a 'son for themselves'. The second, middle-aged couple, took Daniel out during the Easter holidays, but brought him back before the holidays ended. They also had a pet dog and, as Daniel himself explained it, when it came between the dog and himself, they had chosen the dog. Both families had latent expectations of adoption. Had the team made a 'mistake' in the selection? Perhaps their desire to see Daniel adopted had misled them?

After these initial failures, the professionals thought about Frank, a bachelor who had offered himself to take out a child. He was about 40 years old, very intelligent, and did not want a son. Rather, he respected the child's own history, and his concern for his mother.

Initially, Frank took Daniel out on a Saturday morning and brought him back on a Sunday afternoon. After a few week-ends, however, Daniel insisted on coming back on Mondays, and in two or three months he asked to live at Frank's house and only go the school at the institution. What did concern him was that he had not revealed this to his mother, and felt guilty towards her.

He felt under considerable pressure for the relationship with Frank to succeed. He thought he needed to demonstrate to everyone that he was enjoying himself all the time. This anguish led to occasional bed-wetting and threats to jump out of a house window, but Frank handled these pressures calmly, and eventually convinced Daniel he should see a psychologist, which he did.

After six years of fostering, Daniel is now 17 years old. He goes to a private school, has many friends, and is very interested in sport. While he initially had many arguments with Frank, the two now get on very well together. He does not yet want to be adopted by Frank, but says he will think about it. Sometimes he meets his sisters, one of who has just married, and he still visits his mother from time to time at the mental hospital in which she has been interned. He is now able to accept her for herself, and with her faults, without feeling that he is in some way responsible for her condition. Indeed, he seldom reflects on his past life.

CHAPTER IV

THE VOICE OF THE CHILD - PERSPECTIVES

The voice of the older child in adoption placement

Presentation by Ombline Ozoux Teffaine, Docteur en Psychologie from France.

A great number of questions - ethical, legal and psychological - are raised by the separation of the older child from his/her foster family for a planned adoption.

In France, there are certain children who end up in a state of de facto abandonment when their original parents have broken off all relationships with them and despite the assistance which has been afforded, fail to assume responsibility for them. Before being declared legally adoptable, the child has already grown up in his/her foster family and reached the age of 3, 4, 5, 6 years or even more when the question of adoption is broached.

At such time, a host of arguments arise over the advisability of moving the child from one environment to another:

- the age of the child is often cited as a handicap
- the attachment of the foster family to the child and his/her "effective integration" are quoted as evidence in such a way that the voice of the child at such a time cannot be detached from the wishes of the adults around him. Indeed, he may say to us "I do not want to leave".

As the prospect of yet another new parting draws nearer, the child is panic-stricken with genuine fear of the people who make up his environment.

We shall see how that, to accept the word of the child, without taking account of the context in which he finds himself, could cause him even more harm. The child must be able to disengage himself from the wishes of the adults around him before he can be aware of his own particular wishes.

In the course of my earlier professional experience as a teacher, later as a psychologist and currently today as a psychoanalyst, I have faced the various stages which the child will go through before his final adoption.

I can state, and experience affirms, that a child up to the age of adolescence will draw considerable benefit from an adoptive placement - always provided that a number of safeguards are met in the move towards this new life.

It is indeed a question of a new life, since the adoption offers all the guarantees and benefits of a legal affiliation. We are witnesses to the process of building a family!

The stakes are so high that the first advance which the child makes may be followed by a reversal. "I do not want to leave" consciously reminds him that he has already had to leave. These words also remind him of the relationship which he may enjoy with his substitute foster parents but, beyond them, these words bear witness to his ability to create a future relationship.

It is therefore through respecting these words that the child is enabled to move forward whilst nevertheless avoiding above all accepting them "literally" since to do so would be to be restricted by the very thing that he wishes to tell us.

Very quickly it is in effect apparent that these words hide the fear of experiencing a return of the evil images of those who were capable of rejecting him.

No picture of better parents can ever really be formed without long and painstaking work in killing off images of his original parents, images which he has lived through and found to be inadequate and even harmful.

The child fluctuates between the need to change nothing of his circumstances and the fundamental need to be supported by parents for the rest of his life. He will gradually feel free to express his desire for affiliation, as he is given the opportunity to be supported as he adjusts to these inner fluctuations.

In dealing with adoption, I have found need to build up a structure of interventions, through which the child can rid himself of his anxieties and fears.

In this way, through a regular series of specialised consultancy sessions with the child, I have been subjected to reactions of rejection, evasion and aggression all aimed at the image of the former parents by which he was obsessed and which he could direct at me. However, during the course of our meetings, a sense of security and confidence have replaced this earlier opposition - I then came to represent a less threatening and more trustworthy image, one which might open the doors for him to a life elsewhere.

This second reaction has helped conjure up on the child's mind questions about the future which he might hope for.

Through our mediation and in anticipation of the future, there now took place the appropriation of new sorts of parental images sufficiently positive for him to desire them in reality and to wait for some while for them to be fulfilled.

From this new moment onwards, the voice of the child changes completely. It is shown by more and more interest in the future and for unknown places which arouse great curiosity.

He then says: "I want to see my room" or
"Do they have any children?" or indeed
"Are we going there soon?".....

So many manifestations of the dawn of a new hope. The child, when he is given the opportunity, senses the important consequences of a life of adoption.

Moreover, at the same time, he begins to abandon himself to manifestly regressive behaviour. No matter what his age, he will psychologically revert to being a young baby in search of parents:

> **Ali and Aicha, at 8 and 7 years of age, having refused to leave, began to fight over their place in my attention, monopolising me, taking up all my time, tearing me apart, whilst all the time asking those questions which drew them closer to those other parents, whom they knew that I had met. They showed an impatience to return to see me, until I was able to reassure them about those who were waiting to give them a life-time of attention.*

The impact of this discovery: "There are actually parents for me" opens the eyes of the child to such incredible prospects that they are in effect reduced virtually to the state of a baby.

In this way, he urges his adoptive parents to accept him as their real child.

The anxiety to be picked up, cared for, fondled even at an advanced age becomes the major preoccupation of the potential adoptee who has glimpsed the prospect of his adoption as an attainable goal.

He then enters into the first phase of reconstructing favourable parental images, yet this work will still remain to be completed.

He now says: "I want to be the only child of my parents". His words are transformed. His demands are exclusive and exacting. Only the need to be accepted, loved, adored for himself alone is important.

We witness a return to the "one being", origin of primary infantile narcissism, a constituent of the psychical life and which originates in the narcissism of the adoptive parents and the unconditional expectations of childhood.

> **Rizia and Djemel, at 6 and 5 years of age, before their adoption were not very keen to leave their substitute foster family. Yet, from the moment that they got to know their adoptive parents, they began to speak negatively about the earlier substitute family and appeared, to some extent, like children who have been unhappy prior to their adoption. In reality, nothing in their circumstances could have given rise to such a belief as the foster home had offered them safe guarantees.*

So, in this way, the child who is to be adopted builds up an actual "saga", one which is constantly developing as the adoption process unfolds, whatever the reality he has known.

It is essential that those who are to take on the future responsibility for him should listen to this "dark saga" through which he first of all speaks of having been ill-treated by his former parents (foster or original), for in this way he sets out to motivate their concern.
Once the adoption had gone through, he will feel able to abandon the "dark saga". He will no longer feel so much need to recall how he was saved from a worse fate. His will now be a "colourful saga" which he will build with the help of the scraps of reality which he has assembled on his origins.

We see that the voice of the child, even at the age of 5, 6, 7 or more, may express a large number of inner feelings which it is essential to record.

Yet it would seem to us that nothing is more dangerous than to retain a word for word rendering of what is said by the child without recognising its hidden meaning and above all the tenor of what he is trying to convey to those to whom he speaks.

Moreover, at a later stage, after adoption, following the initial idyllic period enjoyed by parents and child, other more difficult phases will occur.

The child again gives vent to his inner turmoil and tends to distance himself from his adoptive parents. His words become harsh, hostile, even discrediting.

He goes through a period of disillusionment, necessary for his psychological maturity, however strange that may seem.

He tries to make himself different, to stand aside from the common environment which he shares with his parents and to build up his own identity.

This period can arise quite quickly after adoption.

Vincent and Remi, at 7 and 9 years of age, having found the food excellent, declare that the food at their adoptive parents' home is poor. They have sudden changes of mood, outbursts of anger which become more and more intolerable until such time as their adoptive mother recalls their first mother whom they have never known. By so doing, she conveys to them the distance which separates her from the first mother but whom the children were attempting to reduce into one single figure.

In this way takes place the killing off of former images as the child is able to distance himself from the projections which he is carrying out on the new parental images.

Occasionally, this phase occurs only at adolescence or even as the child approaches adulthood. It is not always so easily resolved.

Where this phase cannot be surmounted and left behind, the child/adolescent may once again be plunged back into the past.

Emmanuel, at 15 years of age, who had lived from the age of 4 with his adoptive family without any particular difficulties, suddenly could not care less. He runs off and compares himself to his biological brother and sisters, self-denigrating, running himself down. He provokes a scene of violence and confrontation between himself and his father. An image of the abandoned child comes to the forefront of the family scene, a clear-cut image which, though repressed, nevertheless had remained, despite the reality of the adoption. He will increase the number of incidents which will bring about his hospitalisation, just as at the time when he had been found at the age of 2 years in a hospital in Latin America.

The children of international adoptions do not escape these phases of illusion and disillusion, nor the building of a new "saga" based on their origins. They have said loudly and clearly that they wanted to leave. Nevertheless, their inner fluctuations and uncertainties are no less intense. The signs of the past, of rejection and ill-treatment, no matter what their age, can always re-emerge into the present for the adopted child.

We shall never finish listening to them so that some words of truth may burst forth, freeing them from the weight of their painful origins.

If they need to forget the past, it is so that they may later return to it, to recreate it in their own way, like a work of art which as its author, they might produce.

I shall conclude by leaving you on this occasion with the words of the poet, Rainer Maria Rilke, who said:

"We are born, as it were, provisionally somewhere and only gradually do we create within ourselves our place of origin so as to be born there again at a later date and more definitively each day".

THE RIGHT OF ADOPTED ADULTS TO KNOW ABOUT THEIR ORIGINS

"One of the common complaints of adopted adults is that they continue to be treated by society as 'children', they are never allowed to grow up".

Sorosky, A.D., Baran, A & Pannor, R. (1978)

The Adoption Triangle: The effects of the sealed record on adoptees, birth parents and adoptive parents (New York, Anchor Press)

Norah Gibbons representing EFCW Ireland

Much has been written about the need of adopted people to know about their origins. Theories on why people need to trace range from a view that it is a basic curiosity in the human being to know who they are to a concept that people cannot have a full identity unless they are able to put together in a meaningful way all information that relates to them. In 1952 when Ireland introduced it's Adoption Act, it introduced a closed system of adoption. What this meant was that little or no information was given to the parties in adoption about each other; adoptive parents were given little information other than a date of birth for the child they were adopting, birth mothers were given no information about the family who were going to adopt their child. This meant that the adoptive family had no way of answering any of the questions that their adopted children might have and the birth mother had no mind picture of the adoptive family. Over the past decade we have moved towards more open adoptions. Meetings between placing birth parents and adopters are encouraged and there is a far greater exchange of information now.

The nature of Irish Society in common with other societies, has undergone considerable change since the 1950's. The changing trend in the attitude of society to births outside marriage is well illustrated by comparing the figures for births outside marriage to corresponding adoption figures. In 1967 there were 61,307 total births in Ireland. Of these, 1,540 or 2.5% were outside marriage. In the same year 1,493 Adoption Orders were granted.

In 1991 there were 52,000 total births in Ireland, 16% of those were outside of marriage. In contrast to past figures only 323 babies were placed with adoptive parents.

Our clear and now established trend is following that of other European countries in that we have increasing diversity of family life-styles and adoption is the option chosen by far fewer single mothers.

Over the past ten years we have become increasingly aware of the difficulties that this system of adoption has posed for many people;

1. It does not allow adoptive parents to fully parent their child in that they are not able to answer all the questions that their children have about themselves.

2. Adopted children and adults appear to have experienced a sense of shame and of difference being attached to them because information relating to them is not made available.

2.1 They worry that because information is not made available to them their background must in some way be very different from the rest of the population and they often believe that the difference must be a negative one because of the secrecy.

2.2 They describe much embarrassment in explaining themselves to other people; i.e. not having full medical information available, not being able to answer social questions re origins etc.

2.3 They discuss that they feel incomplete in that bits of their life story is not available to them, e.g. they may not know exactly where they were born or where they spent the part of their childhood before they came to their adoptive family.

3. Birth parents are left with a deep loss that appears to grow over the years rather than recede and a constant wondering about the child they placed for adoption.

4. Social workers have ongoing difficulties in counselling their adult clients - what can they tell? Will pieces of information, however non-identifying, allow the jig-saw to be completed?

IRELAND - the legal situation now with regard to search.

People adopted in Ireland do not have any legal right to their original birth certificate or indeed to any information about their roots.

The present situation in Ireland is that if you want to make enquiries as an adopted person you are starting out on a very unsure road.

1. If the agency that placed you is still operating, in most cases you will get old information about your family of origin, and after some counselling many agencies will try to contact your biological mother by using the address given at the time of placement. If that does not work, few agencies will look further, often because of a lack of resources. There is no recordscan service in Ireland.

2. If your agency has closed, or if you were placed by a third party or privately, a Welfare Officer of the Adoption Board may provide non-identifying information and some initial counselling. However the policy of the Adoption Board is that, even where they hold the records of closed agencies, they will not contact the mother unless they have heard from her that she wishes to be contacted. They take the view that they did not have a contract with the mother in the past. But as biological mothers on the whole do not know that they can register their wishes, this is another blank wall for adoptees.

THE WAY FORWARD

For those people separated from their families of origin, the available services, although often excellent where they work, are patchy and governed by individual or agency policies.

I believe that there is a clear need for a change in legislation in Ireland to allow all adopted adults at eighteen to get information about their origins. I feel that it is a basic human right to know where you were born and to whom you were born. This information is readily available to those of us who were brought up in our families of origin. At the time of the adoption, most adopted people were babies and were in no way involved in the legal and social transaction that moved them from one family to another. Research shows that most adopted people would describe themselves as being happy within their adopted family, so that does not appear to be significant in their need to search or get information. Some adopted people would describe a sense of restlessness and they feel it relates to the fact that they are not able to put a coherent history for themselves together.

Clearly there is a need for counselling to be involved although whether or not it is possible to make this counselling compulsory must be debated and the nature of the counselling offered must not be as a control mechanism for information.

An argument sometimes advanced for not changing the law is that if the rights of the adoptee are recognised then the birth mother will lose her right to confidentiality. Birth mothers who sought confidentiality thirty, forty or fifty years ago did so perhaps in many cases because of the huge social stigma attached by society and therefore by themselves to the birth of a child outside marriage.

Also there was no open adoption - no one asked did they wish to know of or meet their child in the future, so secrecy was the only way. Furthermore we cannot claim to know that what a young woman, or indeed a woman of any age, wanted at a crisis time in her life, is what they would still want today. They were often sent away in disgrace from family and friends, and forced to make a life long decision they were both psychologically and emotionally ill prepared to make. The birth mother is no longer protected by the lack of legal rights of the adoptee - we have a mushrooming growth in adoptees tracing themselves and not using mediators because they are afraid they will be stopped in some way and most worrying of all, private companies setting up for this very reason with no professionals involved. Birth mothers are now being contacted, sometimes indeed the wrong one in very unsavoury ways, and their distress is great. My other strong feeling is that all this quiet tracing and searching means that birth mothers are not being prepared by wide discussion in the media for possible contact, so they can seek help for themselves if they wish that or indeed complete some difficult tasks they may need to do, like telling partners or other children.

It would also help Adoptive Parents whose needs around searching and reunion must also be recognised. They can feel completely left out of the process and ask "Does my 30 years of caring mean nothing". Any process set up must include all parties involved.

Voluntary Contact Register

Recently, the Adoption Board has recognised the need for a voluntary contact register and this is an important step in seeking a fundamental change in our adoption laws but their proposals have not yet been widely debated and does not allow for a right to information for adult adoptees.

Information is power and power is something professionals in adoption and fostering work must get ready to share with all adoption consumers.

NOTE for information: Children adopted in Ireland can <u>not</u> be adopted again unless orphaned i.e. both adoptive parents die.

BELGIUM - THE RELATIONSHIP BETWEEN THE ADOPTIVE CHILD AND BIRTHMOTHER

Presentation and case history from Bernard van Steenkiste of Bereninging voor Kind an Adoptai Gezin, representing EFCW (Belgium)
The writer is a psychologist working for an association of adoptive parents in Flanders.

Historical aspects

After World War II thousands of children without parents were placed in families though at the time there were no legal regulations for adoption.

In 1969 a law was passed in Flanders which gave the adopted child the same rights as a biological child.

Until 1970 there were no problems in obtaining a Flemish child for adoption, but now couples have to wait between 4 and 7 years. In 1992 100 Flemish children were adopted by Flemish parents but there were approximately 350 foreign adoptions.

Only in 1989 was a law passed regulating the organisation of an adoption service.

In the sixties and seventies the culture surrounding adoption was shrouded in secrecy - it was thought best to sever all relations between child and mother and adopters were discouraged from discussing the adoption with the adoptee. Information was deliberately destroyed on the assumption that if it did not exist it would not present a problem and it was thought that if couples forgot the child was adopted the more he or she became their own child.

The results of this have been that adoptees have concluded that adoptive parents do not care for birth parents or that they are of little consequence. However, the "lie" of not telling a child he is adopted and the continuation of this over the years creates a crisis of confidence in the adoptees relationship with his adopters.

In Flanders we are now reaping the results of this policy with its consequent destruction of relationships within families and many children are desperately searching for their birth parents. We have noticed that this is even more keen where adoptees have received negative messages concerning their birth parents e.g. "I have always known we'd have problems with you".

These experiences are leading us to change our practice and candidates and social workers are encouraged to tell adoptees of their status as soon as possible. We have also developed a handbook to assist adopters.

As yet we have no regulation concerning the age at which adoptees can have information as to their origins. Before contacting my organisation they have usually been searching for some time - but it is easy for them to obtain the birth mother's address if they are born in Belgium.

Our method of helping is initially to persuade the adoptee that his adoptive parents should know of his search. We try to establish what the adoptee is expecting of his birth mother, how they might feel if she does not want to respond to them or if she has died. We will find the mother and initiate contact to discover how she feels about possible contact. We try to obtain a social history of the birth mother which is then passed on to the adoptee before contact takes place. We also encourage them to write to one another before contact.

We try to build up a relationship of trust with both the adoptee and birthmother in order to facilitate the contact and assist in the relationship. We have found that the period after the initial contact is one of the most difficult for the adoptive parents who fear losing their child. We have also found that for the birth mother there have been years of sorrow, guilt and secrecy. Some have had to have psychiatric treatment.

It is our hope that the stigma and secrecy around adoption should disappear and that perhaps indirect contact between adoptive parents and birth parents could be helpful for both birth mother and adoptee.This has already started to happen spontaneously between some adopters and mothers but the adoption services in Flanders are not very enthusiastic about this trend, feeling fostering would be a better alternative if any sort of contact is maintained.

Case History of Tom

Tom is now 24, born in Belgium and adopted as a baby by a well-to-do family. Although the family have watched TV programmes on adoption and he knows he is adopted, the topic is not particularly discussed. The adoptive parents want to talk about the adoption but wait until Tom asks questions. Which he never does.

At sixteen Tom becomes very difficult and unresponsive. His studies decline, he stays out at night and mixes with girls from children's homes. He develops a relationship with Ann whom he wants to marry but his parents say he is too young.

They live together and marry just before his 21st birthday. Ann is pregnant. Tom is very rude to his adoptive parents on his wedding day, though they have paid for everything. The relationship between Tom and his father is severed and though he sees his mother occasionally it is very difficult. During this period the adoptive mother does all she can to read and understand adoption.

Tom does not want his parents to know he has a son and cuts his ties with them completely. Three months later the adoptive parents contact me. I meet all the parties and find they all have very different points of view as to the problem. Tom says he has been looking for his mother since he was 12, he is also angry as he feels she abandoned him, and the birth of his own child has made it even more difficult for him to understand. He wants to find out what happened, but Ann fears the result, if the mother does not wish to see him or if she is dead, she doubts if Tom could cope. She is even fearful for their marriage.

Much time has been spent preparing Tom and his mother to meet. Tom's aggression declines and Ann seems happier about a possible meeting.

The first contact is a great success and several follow. However two months later I receive a phonecall from the adoptive parents. They have not seen Tom since his contact with his birth mother and they wonder what to expect. The situation to date is that I have written to Tom inviting him to come and talk to me about his relationship with his adoptive parents and I am waiting for his reply.

In the past the relationship between adoptee and birth mother was abruptly severed. Our experience is now teaching us that it may be better for both the adoptive child and birth mother to have indirect contact.

CHAPTER V

THE PLACEMENT OF CHILDREN WITH SPECIAL NEEDS

Presentation by Hedi Argent, Social Worker from the U.K.

Disability is not a handicap for adoption. Children with the most severe and multiple physical and mental disabilities can be successfully placed with permanent substitute families.

Before the 1975 Children Act and the 1976 Adoption Act, children with disabilities were hardly ever considered for adoption. "Not fit for adoption" was generally stamped on the file of the most mildly handicapped child who was in public care and in need of a family. Even foster care was rare and these children were likely to linger in institutions until their disabilities, often neglected, caused them to be institutionalised for life.

In 1976, as a result of concerted efforts by adoptive parents and social workers, inspired by pioneering work in the USA, the first specialist voluntary agencies were set up with the specific brief to find adoptive and permanent substitute families for children with special needs. These agencies were financed with a combination of public funds, charity grants, and fees charged to local authorities for placing the children in their care. Now, nearly 18 years later, when local authorities which also act as adoption agencies, can successfully place at least some children with special needs, those children referred to the specialist agencies the most profoundly disabled.

Our first tentative steps were taken in the direction of finding families for children with Down's Syndrome. Now we know that these children are easily placed and that the greatest handicap is not Down's Syndrome but age. So, while we have more applicants for babies with Down's Syndrome, than babies with Down's Syndrome, it still takes a great deal of time and therefore money, to find, prepare and support permanent substitute families for a teenager with Down's Syndrome. Even so, given enough resources, every child or young person under the age of 18, whatever the disability, can be found a new family if he or she needs one.

We start out from the premise that every child has a right to a family, although it has to be acknowledged that it may not be in every child's best interests to be placed with a permanent substitute family, even if the birth family cannot offer a home and security. Painstaking, early planning for children with disabilities, who come into public care, is essential and every kind of assistance must be offered to the birth family to prevent the need for a substitute family. However, if birth families cannot care for their children with disabilities, they may need skilled counselling to enable them to accept that strangers can manage better than they can. It is sometimes easier to let their children go into institutions. If a degree of openness can be achieved in adoption, both parents can be helped to make a continuing and significant contribution to their child's life. At the very least, an indirect annual exchange of news and photographs through the placement agency will enrich both families.

If children with disabilities are to be placed in new families from residential homes, then the residential workers need to be closely involved at every stage. It is easy for carers, who have devoted themselves to children with special needs, to be made to feel that their commitment is inadequate unless they share the belief that all children need families and that there is a family somewhere for every child.

If we do not find a family for a child it must be because we have not looked hard enough. We need publicity to find new parents for children. No-one wakes up on any morning of any week with a burning desire to adopt Caroline who is 12 years old and does not hear or walk and cannot feed herself because she was brain damaged at birth. But, if someone reads an article about Caroline, if they see a photograph, if they learn that Caroline can laugh and craves affection, and is not a handicapped person but a child with disabilities, then they just might respond. One response is enough if it is the right one. The right family might turn out to be

a single person, an older couple, a family with many children, people who have been divorced, who have remarried or who have unusual lifestyles. Nearly all the families who adopt children with disabilities have some experience of disability. They have a disabled family member, or they have worked with people who are disabled or they are in some way disabled themselves. They have overcome problems and are ready to overcome more or they have already been parents to ordinary children and now welcome the challenge of becoming parents to children with special needs. Single parents can give the one to one attention many of these children demand without upsetting the balance of an existing family; deeply religious people may be motivated by a faith which will also sustain them during the hard years ahead.

It has been asked whether we are seeking second-class parents for second-class children. The answer is "never". We will never lower our sights but we will always aim to widen our horizons.

Josephine was four years old and totally blind. She had no speech and was only just beginning to walk. She also suffered from diabetes insipidus which resulted in a fluid imbalance. She had to be checked at two hourly intervals, day and night and carefully measured medication had to be administered through the nose. A growth hormone deficiency had to be treated twice daily. Josephine's adopters responded to a letter about her in a magazine. Both parents were nurses, it was the second marriage for both of them and they had successfully reared 8 children between them. They also shared an unconventional religious faith and a wealth of experience in dealing with difficulties. After Josephine, they adopted two more blind children with a variety of added disabilities including cerebral palsy and severe retardation. Yet, they could never understand how another family, in the same street, could adopt 3 children with behaviour problems.

It seems that almost everyone can become a parent to some child, but hardly anyone can become a parent to any child. The starting point must therefore always be the child and we have to find and prepare the right parents for each individual child. Issues of race and culture should not be overlooked because the child is also disabled. We have learnt that even children who cannot communicate are aware that their new family has the same or a different skin colour from their own. Whoever the substitute parents are, whatever the motivation, the permanent placement of children with disabilities will only work if the new parents want the child because of, not in spite of, the disability. Thus, a baby with Down's Syndrome will not be a replacement for an ordinary baby they cannot have; Josephine was loved as a very precious child because of her needs and not in spite of them, although her new parents did everything possible to improve her condition and to fight for her rights in society.

It is self evident that children who are hard to place are hard to bring up. Children with disabilities cost more and unpredictable problems are likely to occur as they grow older. Health, education, employment and sexual development frequently give cause for concern. All families with disabled children should have access to help and advice and substitute families should have the right to a post placement or post adoption service tailored to their needs. It is an urgent matter, in these times of financial constraints, not to ignore the children with disabilities who need permanent placements, but to find substitute parents for them and to support these new families. Adoption is not a cheap, easy solution for disabled children. Both adoption and disability are life factors and both are expensive. Both the new parents and their children with disabilities bring their own rewards.

CHAPTER VI

THEMES COVERED IN WORKSHOPS AND WORKSHOP FINDINGS

Thursday 11th March

The presentations were followed by workshops. Participants were divided into groups to work on different aspects of a particular topic in the light of the issues outlined so far.

Group A focused on what needs to be done with regard to upholding the rights of the child, his right to express a view and serve his interests in relation to race, culture and religion.

Findings - Group A

Formal agreement by the child to his adoption needed in France once the child reaches 13 years of age, 14 years of age in Germany, 15 years in Belgium. In the UK a guardian ad litem is appointed by the court whose duty it is to seek the child's view in the light of his age and understanding.

On the whole, requirements appeared inadequate to the child's right to express his view (particularly if younger).

With regard to religion, Ireland appeared to have the strictest commitment to this. Most EC countries "try" to respect the preference of parents if they state a view. In practice this is difficult, particularly in relation to Moslem children (difficulties in recruiting). In the UK particular efforts would be made to seek adoptive families of the same race and culture and was the only country which granted adoption allowances.

It was noted that even in international adoption children from areas such as the former Yugoslavia or Rumania and eastern Europe were preferred to children from Somalia or Zaire.

Racism was apparent in many countries for adopted children. In some countries it was thought they were "accepted" if they explained that they were adopted. This still put them in a difficult situation with regard to their origins.

Two presentations had voiced the strong need of adoptees for information on their origins, history, and why they were adopted. Here provision is inadequate generally (only UK and Scotland had this provision in law), but particularly for a child adopted from abroad. In Germany adopted Korean children particularly are having difficulty. International Social Services see this as a growing problem. In domestic adoptions in Germany and Scandinavian countries the mother is usually persuaded to divulge the name of the father. In France the "birth under X" means a mother can refuse to divulge any information if she wishes. (This service was developed to reduce the risk of abandonment of infanticide).

Clearly adjacent countries in Europe view the rights of the child differently. Workshop participants felt they pointed clearly to the need for carefully planned structural crossed researches, particularly seeking the views of those most concerned, the adoptees.

Group B looked at what needs to be done with regard to ensuring adoptive parents are appropriately selected and prepared.

Findings - Group B

Information to prospective candidates is important, as is the ability of those concerned to acknowledge and understand the difference between adoption and having biological children.

Social workers do not have the right to retain information, it does not belong to them. They should help adoptive parents to respect and understand birth parents in relation to the child's feelings and encourage positive attitudes to openness. The exploration of candidates flexibility and coping mechanisms would be important in the assessment of how they might deal with unexpected issues arising in the future.

Within intercountry adoption the preparation of candidates needs to be at least as thorough as for domestic adoptions but has added dimensions - the genuine understanding of institutional racism and prejudice, the need for extensive information about ethnic, cultural and religious background, as well as meetings with other inter-country adopters for support and information.

As a number of systems are currently promoting contact (UK) or contemplating variations of it (Flanders in Belgium, Ireland) this was discussed but would clearly depend on individual legal systems as some currently prohibit it (France, Italy). The benefits of some form of contact should be discussed particularly from the point of view of the benefits to the child, and the avoidance of fantasy and acting out.

It was thought that an understanding of the implications of the Hague Convention as a tool in preparation would be very useful.

Group C looked at how to ensure the civil rights of natural parents

Findings - Group C

The Italian representative explained that the "consultorio familiare" which deals with family placement is composed of generic social workers dealing with a range of issues from divorce to drug addiction. They are responsible to the Ministry of Health. It was felt that as the consultorio deals with both birth families and adoptive families there is a conflict of interest and enormous professional ambivalence. In addition there is little fostering in Italy and as adoption is "closed" and essentially secret, a foster family cannot adopt their foster child (because they have known the family of origin). The lack of secrecy as to the foster child's origins is precisely what renders him/her unadoptable under this system.

This contrast with the situation revealed in France, Belgium and Spain, where judges seem to prefer fostering to the detriment of adoption.

It was felt that both in Italy and Spain the law protects the family of origin, often to the detriment of the child given the long time scales for change.

In France the birth family would be dealt with by a separate sector of the social services, and birth families are therefore also more likely to come forward seeking help. A range of services would be offered including short term fostering or placement in residential care.

The group found it difficult to concentrate on the rights of the birth parents and discussion soon moved to the rights of the child, often judged as contradicting respect for the rights of the adults involved. It was felt that the rights of birth families were respected almost to the detriment of the child, particularly when it took a long time for any final decisions to be made.

The relationship between fostering and adoption varied from its non-existence in Italy (foster-family can never adopt foster-child) to the situation in Belgium where an enormous number of foster families adopt their foster child and indeed, judges prefer this (the services would not consider moving a child on to an adoptive home from fostering). In France a foster family would be given first option. However, if they do not want to adopt, or if there appears to be a more suitable family for the child, the child, pending preparation, would be moved.

Group D worked on how to tackle other problems such as the status of the child if rejected before or after adoption, unforeseen medical complications, lack of background information etc.

Findings - Group D

Most countries would offer a service to the child if rejected after adoption similar to that offered to birth families.

This group found that most problems arose from private agencies working in the area of adoption, particularly inter-country adoption. Problems most often arose because of medical complications or handicaps and lack of information due to lack of regulation. Some countries, particularly Italy, were concerned that trafficking in children was going on. Experience showed that if families were not prepared placements had difficulties due to problems of attachment or unrealistic expectations. The reception into care of such children from overseas was particularly high.

Preparation, good support or aftercare system and the need for adoptive parents to be open minded were stressed. A standard medical form with details on the child's background - who placed the child, biological family, address, health of parents, previous placements and reason for relinquishment, why child could not be placed in home country - were all thought to be important information both to safeguard the child, his placement, and provide him with some information in the future. The situation of transnationally adopted children who then came into care without background information to assist carers was particularly distressing.

Friday 12th March

The presentations included the matching of needs of child and family, the placement of children with special needs, the placement of older children and international perspectives. The four groups were then asked to look at the following issues from the point of view of:

1. the child
2. the adoptive family
3. the biological parents

Group A: The pre-placement stage. The significance of race, culture and religion at the selection and preparation stage.

Findings - Group A

There was concern at the lack of preparation of adoptive families. This should be insisted upon by regulations. In all countries families circumvented procedures and the law and this led to problems for the child when the placement got into trouble. It was the child that suffered. This stage was felt as being crucial in insuring proper preparation and information for all concerned.

Group B: Health & protection. What examinations should be completed?

Findings - Group B

For the child: A paediatric report, a surgeon's report if appropriate, psychological reports, educational reports, a social history and statement of needs were all thought to be necessary. These can be more easily obtained in domestic adoptions but considered to be very difficult in inter-country adoption. Even though in this situation they might be even more necessary. If a child is rejected and there is no information available on him, he has been doubly dispossessed.

For the adopters: Medical and physical aspects of health to be covered. Psychological reports if necessary. A social history and home study. Police checks.

For birth parents: Permission to look or obtain their health records, a social history and extended family history, police records. Again it was thought that this was particularly difficult to obtain in inter-country adoption but vital for follow up for the child, particularly if things go wrong.

Group C: The post-placement stage. What support should be available?

Findings - Group C

One debate centred round whether it should be the same team or a different team that did the follow up as the one that did the approval and preparation. There was not a consensus of view on this. Another concerned the statutory post support offered and support "on demand" once an adoption order is granted. Most countries would offer the same psychological assistance and guidance over issues as they would to ordinary families.

In France and Belgium, once a child has been adopted, if this fails, he/she cannot be adopted again. This is not the case in Italy, Spain or the UK. The possibility of being placed for adoption a second time appeared to be connected with the ease or otherwise with which a country recognised parental failure.

The group also discussed what might be done when, after an adoption was granted, a relevant lie or evasion of the law was discovered. Would it be better to remove the child on the grounds that such behaviour indicated a poor prognosis of the couple's ability to bring up the child suitably (given needs of adopted children) and risk a further separation for the child or leave him in the family in view of the relationship which might already be established.

Group D: Respecting/Upholding the rights of the parties concerned throughout the process and thereafter.

Findings - Group D

The rights of each of the parties were not equal. The child must come first. Issues to be taken into account included:

Who is placing the child. The child must be listened to if of an age. Information must be made available to him. The involvement of the biological parents in the process. Specialised staff needed in country of origin.

Costs need to be monitored so that trafficking is avoided. Either agencies or licensed individuals should prepare home studies. The same standards should apply to domestic and international adoption. Laws that protect the child should also protect the adopters.

Countries of origin should be helped to understand why placements should only be carried out through agencies.

With regard to biological parents it was thought important to listen and take into account their wishes. They need to be encouraged to give information as to their history. Contact can be maintained between biological family and child through the agency. Access to medical information is important. Birth parents need support **after** placement.

CHAPTER VII

RECOMMENDATIONS

Finally groups met to consider what recommendations should be made to national governments and the EC.

General

The child's rights must come first.

Adopted children should be given information but counselling and information services should also be available to **all** parties.

There should be a mandatory introduction period between child and adoptive parents before adoption order is made in the country of origin.

To National Governments

Specialist staff are needed for preparation, counselling and follow up services, for both national and international adoption. Every party - child, adoptive parents, and biological parents should have access to services.

Member states should ensure that social workers in the area of adoption and fostering are indeed specialists and not working in all the other areas of social welfare at the same time.

Home studies should only be carried out by authorised adoption agencies, whether public or private bodies.

Each country should only work with the official agencies in the country of origin.

Member countries should identify children in their care with special needs whose interests would be served by adoption or substitute family life.

Each member state should have a central unit or agency which deals not just with the legal but also the social and psychological aspects of the process.

All member states and national governments are called to ratify the Hague Convention on Adoption once it is finalised. A strategy could then be worked out to monitor its implementation.

To National Governments and the EC

Research should be carried out. Subjects to be identified, e.g. matching, follow up, self-image of adoptees.

There should be surveys in member states on the consequences of free movement on adoption.

To the EC

Collation of statistics, information about services, numbers, and laws should be the role of a monitoring, advisory EC group.

The Commission was called on to examine if it is competent in the area of free movement of minors which is the result of the free movement of people.

To the EFCW

This group to keep in touch and another conference to be organised in two years time to ascertain what has happened in the light of the Hague Convention on Adoption.

EFCW to use the recommendations to inform their work within the European Commission.

CHAPTER VIII

EUROPEAN PRACTICE - QUESTIONNAIRE RESPONSE

A health and educational assessment is undertaken on all children in cases of domestic adoption. Respondents were much less confident about the depth of any assessment of the child's **emotional** needs prior to placement. As far as intercountry adoption was concerned all respondents found there was little information on the child provided. This lack was acutely felt by the helping agencies if adoption failed (see particularly case-history from the Netherlands which makes this point with striking clarity).

Only three respondents stipulated an age at which a child had legally to be consulted or involved. In Denmark this is 12, in France 13, and in Luxembourg 15. All other countries responded that the child's opinion would be sought depending on his age and understanding, and, in some cases, depending on the area in which he lived or training of the adults involved.

It would appear that within the EC few children from ethnic minority groups are placed in families of the same ethnic origin, even though in some countries they may make up the bulk of those coming into care and requiring adoption. Reasons for this varied from the fact that such families do not come forward requesting adoption, to families being ruled out because both husband and wife were working. Only Spain and the UK responded that positive efforts would be made to seek to place a child within his own culture.

Responses as to how religion, race or age may determine placement revealed that in most countries parents' wishes would be observed. In Greece any **foreign** adopter must be of the same religion as the Greek adoptee. In Ireland, the natural parents must be informed of the religion of the prospective adopters of their child **if** they are of a different religion before they give their consent to the adoption.

Race did not feature as an important factor in determining placement but the child's age did. Most EC countries felt it was extremely difficult to place a child over the age of 10 years. No respondents mentioned the placement of handicapped or disabled children (nor were they specifically asked). Only in the course of the conference did it emerge that such children were regarded as extremely difficult to place in families, leaving them mostly cared for in institutions if natural families could not cope.

The UN Convention on the Rights of the Child, Article 8 refers to the responsibility of the State to respect the right of the child to preserve his or her identity. Most EC states see the child taking on a new identity with adoption and this view appears to be maintained regardless of the age at which the child is adopted. The EC Charter on the Rights of the Child specifically mentions (para 8.10) "every child shall be entitled to protection of his identity and if appropriate, be allowed to know certain circumstances regarding his biological origin, subject to restrictions imposed by national laws to protect the rights of third persons".

EC countries interpret this very differently. France, Luxembourg, Belgium, Greece and Italy operate either a non-existent or very restrictive system of access to records for adoptees and respondents acknowledged that information was often in any event lacking. Only the UK and Germany operate a system whereby a 16 year old (Germany) or 18 year old (UK) may look into their own files.

In Italy and France the requirement to preserve parents anonymity came over particularly strongly, whereas the Belgian respondent mentioned lack of information being because the adoption services thought background information would be detrimental to the child.

Belgium, Ireland the Netherlands, and some Greek agencies were conscious that practices were inadequate to the needs of adoptees seeking information and were making efforts (some through changes in the law, others through improved practices) to change these.

Given the extremes of practice in this area, from extreme secrecy to open access, the need or otherwise of adopted people for information on their origins would provide a very interesting subject for cross-cultural research within the EC.

It is particularly ironic that we exercise such extremes of practice when member states are themselves so pre-occupied with what closer union in Europe might involve, raising as it does in some, fears of loss of national identity.

Natural Parents

Responses to the questionnaire indicated that a wide range of services, from both voluntary and statutory agencies, would be offered to parents prior to any decision with regard to substitute family care. Most respondents indicated that these services were inadequate to the demand. Only Holland indicated that it was most unlikely that any dutch child would be surrendered, indicating a very high level of community support.

The need for better day care services for families was stressed, together with training for work and parenting programmes.

Involvement of parent in the choice of substitute parents for their children was almost evenly divided between those states that would involve them to various degrees (Luxembourg, UK, Denmark, Ireland, Netherlands) to those where they would not be involved at all and indeed any connection was not encouraged (Italy, France, Spain, Belgium). In Germany, although there were no procedures for agencies to involve parents in choice, some agencies did practice it, including adoption with contact. In this respect it would appear that parents throughout the EC states are not only accorded extremely variable amounts of involvement in plans for their children, but that the degree of involvement can also vary a good deal within one state and tends to depend on each agency's philosophy and practices.

All respondents indicated that a medical, social and psychological history of parents was taken before a child went into a substitute family with the exception of France where it was indicated that generally very little was known about the natural parents. Despite this, few states had legal requirements about what investigations had to be completed vis a vis natural parents, the only exceptions being Denmark, the Netherlands, Ireland and the UK.

The question regarding parents wanting anonymity was unfortunately open to confusion with confidentiality, whereas it was aimed at discovering how much information natural parents were encouraged to provide for the purposes of assisting adoptees with information about their original circumstances. Even taking this into account, Spain, Luxembourg, France and Italy all indicated that parents wishing to maintain anonymity was upheld, indicating that little information would be available to their children if they wanted it later.

Substitute Parents

All member states had governmental and non-governmental organisations working in the area of fostering and adoption. With the exception of Luxembourg where there was no prerequisite for official approval of an agency, all NGOs in this area of work in member states were "licensed" or recognised by statute, or had powers delegated by the responsible state Ministry.

On the question of health requirements, all states aimed for thorough investigations as to what families were offering a child and included a psychological appraisal, carried out by social workers or psychologists. Police checks or good conduct reports were obtained prior to all court hearings, although if carried out as late as this left room for speculation that offenses might show up when a child was already placed.

Most respondents reported a state or legal procedure whereby families become approved to foster or adopt. The exceptions to this were Luxembourg and Belgium. Greece responded

that the country had recently had a new law passed which would provide for a recognised procedure for approval to foster. Until recently each organisation simply used its own criteria.

The legal age at which one may adopt varied from 21 to 25 years. All states other than UK stated a minimum age difference between adoptee and adopter and this was as little as 14 years in Spain to 18 years minimum difference in Italy. The maximum age difference was sometimes stated in law but not always, and this was as little as 35 in Germany to 50 (stated in law) in the Netherlands. A number of respondents mentioned that most agencies tried to use "age appropriate" criteria when matching child and family in adoption.

The picture was very different when families wanted to foster, with much more flexibility and more emphasis on the energy and fitness of the family for taking on this role.

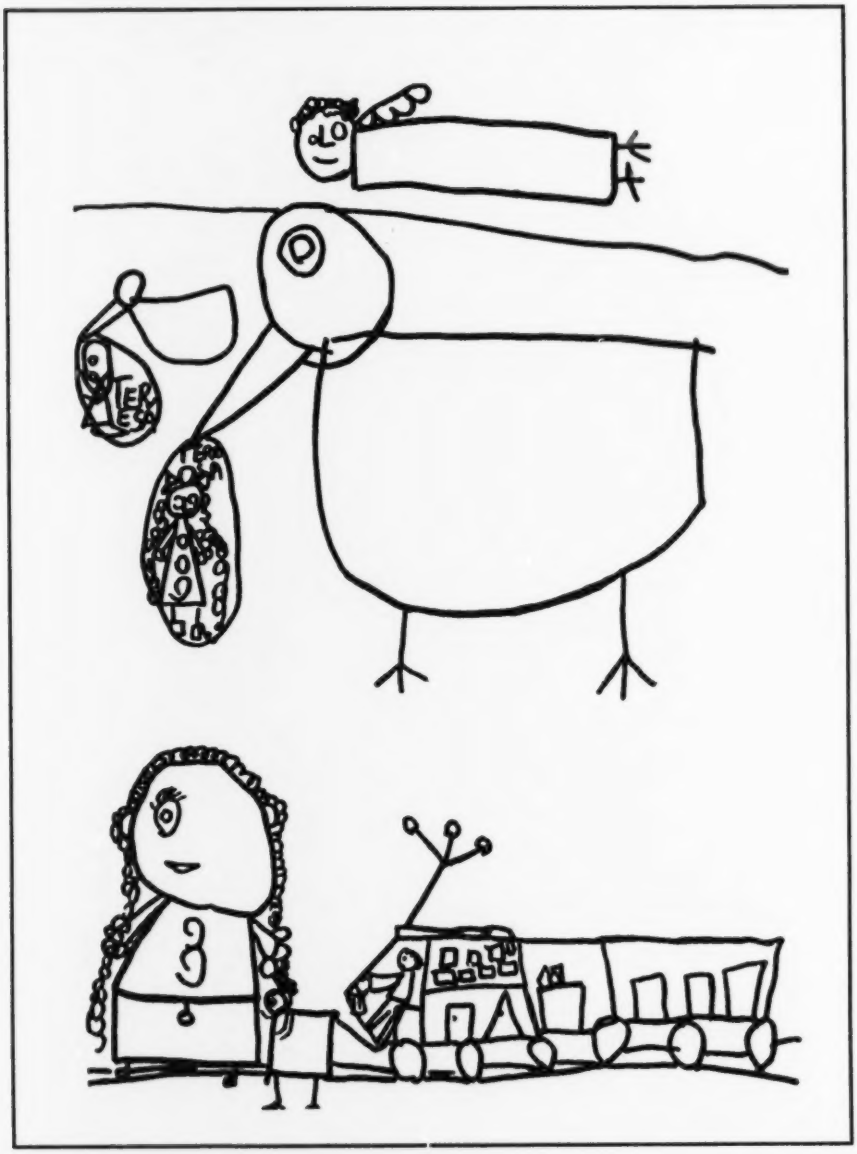
Substitute parents appeared to be offered little in the way of training for what they were taking on. The response of Germany probably sums up the picture across the EC: "Variable and depends on the possibilities and interests of the individual agency".

Similarly the legal requirement to visit a child in placement prior to legal adoption varied with Luxembourg, France and Belgium having no such requirement, to the situation where this was the legal responsibility of approved agencies to determine and carry out. Within this question Holland mentioned "roots travel" for adoptees and parents - and one must remember here that as few Dutch children are surrendered for adoption, then most adoption in Holland is necessarily inter-country adoption.

This drawing was done by a 5 year old adopted little girl, Teresa. For Yolanda Galli, the participant who gave us the drawing, it represents the way many adopted children incorporate biological origins and adopted status.

Teresa was in a children's home without seeing her mother for some years before she was considered for adoption. The angel at the top of the picture represents her biological mother, whom she portrays, bit by bit, at a distance.

The bird to the top left of the picture has one eye so he cannot see where he is going and he has no feet on which to land. The second bird has eyes and feet (both birds represent Teresa) so he can do both these things. Below Teresa has put her adoptive mother with one eye, this is because she took so long to see or realize that there was a little girl for adoption! In her picture her adoptive father is a bus conductor who can take her from one place (ment) to the next. He has three antennae and these represent the family; mother, father, child.



APPENDICES

Appendix 1

1993 - IMPLICATIONS FOR ADOPTION & FOSTERING - QUESTIONNAIRE

The following questionnaire has been devised to assist participants understanding of the socio-legal backcloth against which EC colleagues work.
Where member states have different systems operating within different communities (eg Scottish system different to rest of UK law, in Belgium the three communities operate differently) please **either** fill in another questionnaire for that community **or** state clearly which community you speak for.

MEMBER STATE _____ **COMMUNITY (if applicable)** _____

THE CHILD

1. How are the child's emotional needs assessed prior to placement?

2. Is the child consulted/involved? If so, please specify how this is done

3. Would you say that children from ethnic minority groups are usually placed with families from the same ethnic origin?

4. Is there a system of access to records or background information available to the child about his/her background?

5. To what extent do the following factors determine placement?
   (a) religion of child?
   (b) race of child?
   (c) age of child?

6. Are health and educational needs assessed? If so, please specify

7. Is there a legal process by which a child is deemed "available for adoption"? Please specify

8. Is there anyone responsible for planning the child's future whilst she/he is in care?

NATURAL PARENTS

9. What services are made available to parents prior to a decision to place a child in a substitute family?

10. What services would you say parents in this situation are most in need of

11. Are parents involved in the choice of substitute parents for their child/ren?

12. Are there difficulties of maintaining contact between parents and fostered children? Please specify

13. Is a medical, social or psychological history taken? Please specify

14. Are there legal requirements about what investigations or details must be completed vis a vis natural parents? Please specify

15. To what extent is a parent wanting anonymity assisted? Please specify

SUBSTITUTE PARENTS (to include foster parents and adopters)

16. Which of the following groups work with substitute families?

(a) State organisations

(b) Non-governmental organisations i.e. with recognised powers delegated to them by the responsible authorities

(c) Independent bodies - with or without recognised authority (please specify)

17. Please specify social aspects which are taken into account

18. What, if any, are health requirements?
(Are they purely physical? Is there a psychological assessment? Who does this?)

19. Are police checks completed? If not, what sort of "good conduct/character" reference is obtained and how?

20. Is there a state or legal procedure whereby families become fit or approved to **(a)** foster or **(b)** adopt? Please specify for each **(a)** & **(b)**.

21. Is there an unspoken or legal age range between adoptee and adopter? If yes, what is it?

Is this also true for fostering? If yes, is it the same as above. Please indicate is same or different

22. Do substitute parents receive training?

23. Is there a legal requirement for visits to child and family after placement (but before legal adoption)? What is it?

GENERAL: Please list organisations in your county whose main function is adoption and fostering.

23. Do any of these legal bodies provide follow-up services after legal adoption? Please specify.

24. Have you developed links with other EC based organisations dealing with fostering and adoption? Please specify

Signed

Organisation

Appendix 2

EFCW CONFERENCE 11/12 MARCH 1993

1993 - IMPLICATIONS FOR ADOPTION

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Appendix 3

EUROPEAN FORUM FOR CHILD WELFARE
FORUM EUROPEEN POUR LA PROTECTION DEL'ENFANCE
(A regional group of the International Forum for Child Welfare)

"1993 - IMPLICATIONS FOR ADOPTION"

11TH & 12TH MARCH 1993

AT

MAISON INTERNATIONALE
RUE WASHINGTON, 40
B - 1050 BRUSSELLS

Seminar sponsored by the European Commission.

Programme agreed in collaboration with the Ministry of Culture & Foreign Affairs for the French Community in Belgium

Rue Defacqz 1, B-1050, Brussels, Belgium.
Tel. + 32 2 534 5166/5547 Fax. + 32 2 534 5275

PROGRAMME

Thursday, 11th March

11.30 - 12.30 Registration

12.30 - 11.30 Lunch

13.45 Welcome by the Chair - **Tom White,**
President of EFCW

14.00 - 15.15 **The free movement of people and consequence for adoption**

1. Case history/Issue
Mrs. Norah Gibbons, EFCW representative
(Ireland)

2. Case history/Issue
Mrs. Brigit Prehn, EFCW representative
(Denmark)

3. Case history/Issue
Mr. Bernard Van Steenkiste, EFCW representative
(Belgium)

4. **Different principles and values illustrated by case histories**
Hans van Loon, First Secretary, Hague
Conference on private international law

15.15 - 15.30 **Tea break**

15.30 - 17.00 Group work.

Given the issues outline above,
what needs to be done?

(a) with regard to upholding rights of child, his right to express a view & serving his interests in relation to race, culture religion.

(b) with regard to ensuring adoptive parents are appropriately selected and prepared.

(c) with regard to ensuring the civil rights of natural parents?

(d) with regard to other problems eg. status of child if rejected before or after adoption, unforeseen medical complications, lack of background etc.

17.00 - 17.40 Each Group has 10 minutes to present findings.

17.40 - 18.00 Summing up days of proceedings - **Tom White**

Friday 12th March

Challenges & opportunities: Children with special needs.

9.15 - 9.20	Welcome by the Chair - **Sarah Williams**
9.20 - 10.20	Matching the needs of child and family **Yolanda Galli** (Italy)
	Placement of children with special needs **Heidi Argent** (UK)
	Placement of older children & sibling groups **Ombline Ozoux Teffaine** (France)
	International Perspectives **Chantal Saclier** (ISS)
10.20 - 10.35	**Coffee**
10.35 - 11.45	Groupwork: the following issues will be looked at from the point of view of 1. **the child,** 2. **the adoptive family,** 3. **the biological parents**
	(a) The pre-placement stage. The significance of race, culture & religion at the selection & preparation stage.
	(b) Health & protection. What examinations are/should be completed? (what should they include?) What police checks are/could be completed?
	(c) The post-placement stage. What support is/should be available? (including psychological assistance over behavioral, educational, cultural, identity problems.)
	(d) Respecting/upholding the rights of the parties concerned throughout the process & thereafter.
11.45 - 12.30	Feedback from Groups
12.30 - 13.30	**Lunch**
13.30 - 14.45	Groupwork
	Recommendations for the EC and for National Governments
14.45 - 16.00	Feedback & decisions on recommendations (plenary)
16.00 - 16,30	**The way forward - Tom White**

Appendix 4

INFORMATION ON THE CONFERENCE ON PRIVATE INTERNATIONAL LAW

The Hague Conference on private international law is an intergovernmental organisation the purpose of which is "to work for the progressive unification of the rules of private international law" (Statute, Article 1).

A. Background, establishment and status

The first Session of the Hague Conference on private international law was convened in 1893 by the Netherlands Government on the initiative of T.M.C. Asses (Nobel Peace Prixe 1911). Prior to the Second World War, six Sessions in 1951 marked the beginning of a new era by the preparation of a Statute which made the Conference a parament intergovernmental organisation. The Statute entered into force on 15 July 1955. Since 1956, regular plenary sessions have been held every four years, the Sixteenth of which met in 1988. The Seventeenth Session which will mark the Centenary of the Conference will be held from 10-29 May 1993.

B. Methods of operation

The principal method used to achieve the purpose of the conference consists in the negotiation and drafting of multilateral treaties or Conventions in the different fields of private international law (international judicial and administrative co-operation; conflict of laws for contracts, torts, maintenance obligations, status and protection of children, relations between spouses, wills and estates or trusts; recognition of companies; jurisdiction and enforcement of foreign judgements). After preparatory research has been done by the secretariat, preliminary drafts of the Conventions are drawn at the Special Commissions made up of governmental experts. The drafts are then discussed and adopted at a Plenary Session of the Hague Conference, which is a diplomatic conference.

The secretariat of the Hague Conference maintains close contacts with the Governments of its Member States through National Organs designated by each Government. For the purpose of monitoring the operation of certain treaties involving judicial or administrative co-operation, the Permanent Bureau enters into direct contact from time to time with the Central Authorities designated by the States parties and such treaties. In order to promote international co-operation and to ensure co-ordination of work undertaken by different bodies, the Hague Conference also maintains continuing contacts with the United Nations, particularly its Commission on International Trade Law (UNCITRAL) Unicef, the High Commissioner for Refugees; the Council of Europe, the European Communities, the organisation of American States, the Commonwealth Secretariat, the Asian-African Legal Consultative Committee, the International Institute for the Unification of Private Law (UNIDROIT) and other international organisations. Certain non-governmental organisation, such as the International Chamber of Commerce, the International Bar Association, International Social Service, and the International Union of Latin Notaries, also send observers to follow the work of the conference.

C Member States

The following States are Members of the Conference: Argentina, Australia, Austria, Belgium, Canada, Chile, China, Cyprus, the Czech Republic, Denmark, Egypt, Finland, France, the Federal Republic of Germany, Greece, Hungary, Ireland, Israel, Italy, Japan, Latvia, Luxembourg, Mexico, the Netherlands, Norway, Poland, Portugal, Romania, Slovenia, Spain, Surinam, Sweden, Switzerland, Turkey, the United Kingdom of Great Britain and Northern Ireland, the United States of America, Uruguay and Venezuela.

States which have participated in one or more of the earlier Sessions of the Conference may become Members of the organization by accepting the Statute. Other States must be admitted by vote: admission is decided upon by a majority of Member States voting on a proposal made by one or several of them.

D Institutional structure

1 Plenary Sessions

Plenary Sessions meet in principle every four years in ordinary diplomatic session. In case of need, as occurred in 1966 and 1985, an Extraordinary Session may be held. The Plenary Sessions discuss and adopt the draft Conventions (and sometimes Recommendations) prepared by the Special Commissions and take decisions on the subjects to be included in the agenda for the Conference's work. All of the texts adopted are brought together in a Final Act which is signed by the delegations. Under the rules of procedure of the Plenary Sessions each Member State has one vote. Decisions are taken by a majority of the votes cast by the delegations of Member States which are present at the vote. Non-Member States invited to participate on an equal footing with Member States also have the right to vote. Under a tradition which has been followed since the First Session, the President elected for the Plenary Session has always been the leading Delegate of the Netherlands.

2 Directing organs

Under the Statute, the operation of the Conference is ensured by the Netherlands Standing Government Committee for the codification of private international law. Formally it is this Committee which sets the dates and the agenda for the Plenary Sessions. However, in practice, following a progressive constitutional evolution, the Member States have come to exercise a more direct influence on the decision-making process in this respect, as well as in other matters of general policy of the Conference. Thus it is that Special Commissions of governmental experts meeting between Sessions make recommendations and that the Plenary Sessions make decisions concerning the agenda.

3 Secretariat

The activities of the Conference are organized by a secretariat - the Permanent Bureau - which has its seat at The Hague and whose officials must be of different nationalities. The Secretary General is assisted currently by three other lawyers: a Deputy Secretary General and two First Secretaries. The Permanent Bureau's main task is the preparation and organization of the Plenary Sessions and the Special Commissions. Its members carry out the basic research required for any subject that the Conference takes up. They also maintain and develop contacts with the National Organs, experts and delegates of Member States and the Central Authorities designated by the States Parties to the Hague Conventions on judicial and administrative co-operation, as well as with international organizations and, increasingly, respond to requests for information from users of the Conventions (lawyers, notaries, officials, companies, journalists).

4 Budget; Council of Diplomatic Representatives

The budget of the Permanent Bureau and the Special Commissions is submitted each year by the Secretary General for approval by the Council of Diplomatic Representatives of Member States at The Hague. This Council also apportions the expenses among the Member States. The system of classification follows in principle the scheme which is applied in the Universal Postal Union.

E Achievements, monitoring of results and work in progress

Between 1893 and 1904 the Conference adopted seven international Conventions, six of which have been subsequently replaced by more modern instruments. From 1951 to 1988 the Conference adopted 31 international Conventions. Until 1960 the Conventions were drafted only in French: since then they have been drawn up in French and English. Among the texts which have been the most widely ratified should be mentioned the Conventions on Civil Procedure, on Service of Process and on Taking of Evidence Abroad, the Convention Abolishing the Requirement of Legalisation for Foreign Public Documents, the Convention on the Conflicts of Laws Relating to Testamentary Dispositions, the Conventions dealing with maintenance obligations, the Convention on the Recognition of Divorces and Legal Separations and the Conventions on the Protection of Minors and on the Civil Aspects of International Child Abduction. Some of the Hague Conventions deal with the determination of the applicable law, some with the conflict of jurisdictions, some with the recognition and enforcement of foreign judgments and some with administrative and judicial co-operation between authorities, and some combine one or more of these aspects of private international law.

From time to time, Special Commissions are held at The Hague to monitor the practical operation of Hague Conventions, including the Hague Service and Evidence Conventions and the Hague Child Abduction Convention.

The main topic for the Seventeenth Session to be held in 1993 will be the preparation of a convention on intercountry adoption. Participation in this Session and the preparatory Special Commission meetings is open to certain non-Member States of the Hague Conference invited for that purpose.

F Additional activities

In addition to its principal activities, the preparation and monitoring of Hague Conventions, the Conference has recently expanded its activities into new fields. In conjunction with the Institute for Private International Law and Comparative Law of the University of Osnabrück (Professor von Bar), it organized in April 1992 a three-day Colloquium on the Outlook for Private International Law After the End of the Cleavage in Europe, and it conducted, with the American Bar Association and the Private Adjudication Center of Duke University School of Law, a three-day International Symposium on the Role of the Hague Conference on private international Law in Durham, North Carolina, in October 1992.

The Conference has also become active in operational activities. In 1991 a Member of the Secretariat took part in a mission of Experts which advised the Romanian Government on the implementation of the Convention on the Rights of the Child regarding intercountry adoption, and in 1992 the Hague Conference collaborated with UNICEF in the drafting of a new law on child protection and adoption of Children at the request of the Government of Albania.

Increasingly over recent years, interns have been able to spend a period of time at the Permanent Bureau carrying out research on a topic of current interest.

G Publications

The Conventions prepared by the Hague Conference since 1951 appear in the Collection of Conventions which is published at regular intervals by the Permanent Bureau (latest edition: Collection of Conventions - 1951-1988). The preliminary documents, preliminary draft Conventions and minutes of discussions as well as the Explanatory Reports on the texts adopted appear in the Proceedings edited after each Session. Practical Handbooks on the operation of the Hague Service and Evidence Conventions were published in 1983 and 1985, respectively, and are supplemented or revised from time to time.

Further information on the distributors for these publications and on the status of signatures and ratifications of the Conventions may be obtained upon request from the:

Permanent Bureau of the Hague Conference on private international law

6, Scheveningseweg
2517 KT The Hague
Netherlands
Tel: (31/70) 363.33.03
Fax: (31.70) 360.48.67
Telex: 33383 cable: CODIP

Appendix 5

PRELIMINARY DRAFT CONVENTION ON INTERNATIONAL CO-OPERATION AND PROTECTION OF CHILDREN IN RESPECT OF INTERCOUNTRY ADOPTION

drawn up by the Special Commission of February 1992

This text, accompanied by the Explanatory Report of Professor G. Parra-Aranguren, will be issued as Preliminary Document No 7 for the attention of the 17th Session

EXPLANATORY NOTE

The attached draft is a re-worked version of the draft text prepared by the Special Commission on intercountry adoption of children which met at the Peace Palace in The Hague 3-14 February 1992. A reduced group of the Special Commission's Drafting Committee met at The Hague 9-10 March 1992 in order to refine the linguistic expression, eliminate discrepancies between the French and English texts and carry out certain decisions of the Special Commission which occurred at a stage of the meeting which did not permit submission of a text to the Special Commission.

The attached draft, consisting of six chapters containing a total of twenty-nine articles, remains to be reviewed and completed at the Conference's Seventeenth (Centenary) Session which is to take place in May 1993. Additional articles will have to be considered at a time on, in particular, relations of this Convention with other international conventions, application of the Convention in time (i.e. the extent of retroactivity, if any), and special provisions concerning federal States. Moreover, a chapter of final clauses (on signature, ratification and entry into force) must be added. The Seventeenth Session will weigh the desirability of including specific articles on such matters as: application of the Convention to refugee children, adoption by relatives of the child and accessibility of Central Authorities designated under the Convention to persons interested in a pending adoption.

The Report of the Special Commission, to be prepared by the Reporter Professor G. Parra-Aranguren with assistance from the Consulting Reporter Mrs. L.G. Balanon, will be issued officially, together with this draft, during the summer of 1992.

This document may be freely copied so long as the source is indicated. It has been prepared by:

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PRELIMINARY DRAFT CONVENTION ON INTERNATIONAL CO-OPERATION AND PROTECTION OF CHILDRENIN RESPECT OF INTERCOUNTRY ADOPTION

drawn up by the Special Commission of February 1992

The States signatory to the present Convention,

Recognizing that intercountry adoption may offer the advantage of a permanent family to a child who cannot in any suitable manner be cared for in his or her country of origin,

Convinced of the necessity to take measures to ensure that intercountry adoptions are made in the best interests of the child and with respect for his or her fundamental rights, and to prevent the abduction, the sale of, or traffic in children,

Desiring to establish common provisions to this effect, taking into account the principles set forth in international instruments, in particular the United Nations Convention on the Rights of the Child, of 20 November 1989, and the United Nations Declaration on Social and Legal Principles relating to the Protection and Welfare of Children, with Special Reference to Foster Placement and Adoption Nationally and Internationally (General Assembly Resolution 41/85, of 3 December 1986),

Have agreed upon the following provisions -

CHAPTER 1 - SCOPE OF THE CONVENTION

Article 1

The objects of the present Convention are -

a to establish safeguards to ensure that intercountry adoptions take place in the best interests of the child and with respect for his or her fundamental rights;

b to establish a system of co-operation amongst Contracting States to ensure that those safeguards are respected and thereby prevent the abduction, the sale of, or traffic in children;

c to secure the recognition in Contracting States of adoptions made in accordance with the Convention.

Article 2

The Convention shall apply where a child habitually resident in one Contracting State ("the State of origin") has been, is being, or is to be moved to another Contracting State ("the receiving State"), either after his or her adoption in the State of origin by spouses or a person habitually resident in the receiving State, or for the purposes of such an adoption in the receiving State or in the State of origin.

Article 3

If the child attains the age of eighteen years without an adoption having taken place in the State of origin or in the receiving State, the Convention ceases to apply.

CHAPTER II - FUNDAMENTAL PROVISIONS

Article 4

There shall be no contact between the prospective adoptive parents and the child or his or her parents until the requirements of Article 5, sub-paragraphs a to c, and Article 6, sub-paragraph a, have been met, except under conditions established by the State of origin.

Article 5

An adoption within the scope of the Convention shall take place only if the competent authorities of the State of origin -

a have established that the child is adoptable;

b have determined, after possibilities for placement of the child within the State of origin have been given due consideration, that an intercountry adoption is in the child's best interests;

c have ensured that

the persons, institutions and authorities whose consent is necessary for adoption, have been counselled as may be necessary and duly informed of the effects of their consent and of the adoption,

they have given free and unconditional consent in the required legal form and in writing,

the consents have not been induced by payment or compensation of any kind and have become irrevocable,

the consent of the mother, where required, has been given only after the birth of the child,

the consents have been given in the full knowledge of the effects of the adoption in the receiving State; and

d have ensured, having regard to the age and degree of maturity of the child, that

he or she has been counselled and duly informed of the effects of the adoption and of his or her consent to the adoption, where such consent is required.

consideration has been given to the child's wishes and opinions,

the child's consent to the adoption, where such consent is required, has been given freely and unconditionally, in the required legal form and in writing, and such consent has not been induced by payment or compensation of any kind.

Article 6

An adoption within the scope of the Convention shall take place only if the competent authorities of the receiving State have determined that -

a the prospective adoptive parents are eligible and suited to adopt; and

b the child is or will be authorized to enter and reside permanently in that State.

Article 7

The transfer of the child to the receiving State prior to adoption or the adoption of the child prior to transfer may only be carried out if the competent authorities of both States -

a have verified that no bar exists to the adoption under the laws of their States; and

b have agreed that the child should be entrusted to the prospective adoptive parents.

CHAPTER III - CENTRAL AUTHORITIES AND ACCREDITED BODIES

Article 8

A Contracting State shall designate a Central Authority to discharge the duties which are imposed by the Convention upon such authorities.

Federal States, States with more than one system of law or States having autonomous territorial units shall be free to appoint more than one Central Authority and to specify the territorial extent of their functions. Where a State has appointed more than one Central Authority, it shall designate the Central Authority to which any communication may be addressed for transmission to the appropriate Central Authority within that State.

Article 9

Central Authorities shall co-operate with each other and promote co-operation amongst the competent authorities in their States to protect children and to achieve the other objects of the Convention.

They shall take all appropriate measures to -

aprovide information as to the laws of their States concerning adoption and other general information, such as statistics and standard forms;

bkeep one another informed about the operation of the Convention and, as far as possible, eliminate any obstacles to its application.

Article 10

Central Authorities shall take, directly or through public authorities or other bodies duly accredited in their State, all appropriate measures, in particular to -

a collect, preserve and exchange information about the situation of the child and the prospective adoptive parents, so far as is necessary for attainment of the objects of the Convention and, in particular, of Article 25;

b facilitate, follow and expedite proceedings with a view to obtaining the adoption;

c prevent improper financial or other gain in connection with an adoption and deter all improper practices contrary to the objects of the Convention;

d promote the development of adoption counselling services in their States;

e provide each other with general evaluation reports about experience with intercountry adoption.

Article 11

Accreditation shall only be granted to and maintained by bodies demonstrating their competence to carry out properly the administrative and social tasks with which they may be entrusted.

Article 12

An accredited body shall -

a pursue only non-profit objectives according to such conditions and within such limits as may be established by the competent authorities of the State of accreditation;

b be directed and staffed by persons specially qualified by their ethical standards and by training or experience to work in the field of intercountry adoption; and

c be subject to supervision by competent authorities of that State as to their composition, operation and financial situation.

Article 13

A body accredited in one Contracting State may act in another Contracting State only if it is so authorized by both States.

CHAPTER IV - PROCEDURE

Article 14

Persons habitually resident in a Contracting State who wish to adopt a child habitually resident in another Contracting State shall apply to the Central Authority in the State of their habitual residence.

Article 15

If the Central Authority of the receiving State is satisfied that the applicants are eligible and suited to adopt, it shall prepare a report including information about their identity, eligibility and suitability to adopt, background, family and medical history, social environment, reasons for adoption, ability to undertake an intercountry adoption, and the characteristics of the children for whom they would be qualified to care.

It shall transmit the report to the Central Authority of the State of origin.

Article 16

If the Central Authority of the State of origin is satisfied that the child is adoptable, it shall -

a prepare a report including information about his or her identity, adoptability, background, social environment and family and medical history and any special needs of the child;

b ensure that consents are obtained in accordance with Article 5; and

c determine, on the basis in particular of the reports relating to the child and the prospective adoptive parents, whether the envisaged placement is in the best interests of the child.

It shall transmit to the Central Authority of the receiving State the report prepared under sub-paragraph a and particulars of the determination made under sub-paragraph c.

Article 17

The placement of the child with the prospective adoptive parents or his or her adoption may not take place unless

a the Central Authority of the State of origin has ensured that the prospective adoptive parents agree to the placement; and

b the Central Authorities of the State of origin and of the receiving State have agreed to the placement.

Article 18

The Central Authorities of both States shall take all necessary steps to obtain permission for the child to leave the State of origin and to enter and reside permanently in the receiving State. They shall ensure that this transfer takes place in secure and appropriate circumstances and, if possible, in the company of the adoptive or prospective adoptive parents.

Article 19

The Central Authorities shall keep each other informed about the adoption process and the measures taken to complete it, as well as about the progress of the placement if a probationary period is required.

Article 20

Where the adoption is to take place after the transfer of the child to the receiving State and it appears to the Central Authority of that State that the continued placement of the child with the prospective adoptive parents is not in the child's best interests, it shall take the measures necessary to protect the child, in particular -

a to cause the child to be withdrawn from the prospective adoptive parents and arrange temporary care;

b in consultation with the Central Authority of the State of origin, to arrange without delay the placement of the child with a view to adoption; such an adoption shall not take placed until the Central Authority of the State of origin has been duly informed concerning the new prospective adoptive parents;

c as a last resort, to have the child returned to the State of origin.

Having regard in particular to the age and degree of maturity of the child, he or she shall be consulted and, where appropriate, his or her consent obtained in relation to measures to be taken under this article.

Article 21

The functions of a Central Authority under this Chapter may be performed by public authorities or by bodies accredited under Chapter III, to the extent permitted by the law of its State.

Any Contracting State may declare to the depositary of this Convention that the functions of the Central Authority under this Chapter may be performed in that State, to the extent permitted by the law and subject to the supervision of the competent authorities of that State, also by persons or bodies who meet the requirements of integrity, professional competence, experience and accountability of that State.

Any Contracting State may declare to the depositary of this Convention that adoptions of children habitually resident in its territory may only take place if the functions of the Central Authorities are performed in accordance with the first paragraph.

CHAPTER V - RECOGNITION

Article 22

An adoption certified by the competent authority of the State of the adoption as having been made in accordance with the Convention shall be recognized by operation of law in the other Contracting States.

Recognition may be refused in a Contracting State only if it is manifestly contrary to its public policy and to the best interests of the child.

Article 23

Where the law of a receiving State which has made the reservation of Article X* conditions adoption on the satisfactory completion of a probationary period, notwithstanding that the adoption has already taken place in the State of origin,

a recognition by operation of law shall extend only to the transfer of legal responsibility for the child to the adoptive parents or to the competent authorities of the receiving State in accordance with the law of that State;

b recognition of the permanent parent-child relationship is suspended until that relationship is confirmed by the competent authorities of the receiving State after they have determined that the probationary period has been completed satisfactorily;

c the preliminary steps for adoption referred to in Article 5 of the Convention which have been taken in the State of origin are to be given full effect in the other Contracting States.

If the Central Authority of the receiving State determines that the continued placement of the child is manifestly no longer in his or her interest, it shall take the measures necessary for the child's protection, in accordance with **Article 20.**)

* This article remains to be drafted later.

Article 24

A child whose adoption is recognized in a Contracting State shall be considered in law as the child of the adoptive parents and shall enjoy at least the rights granted to (adoptive) children by that State.

(Where, in the State in which the adoption takes place, the legal relationship between the child and his or her family of origin is terminated, this effect shall be recognized in the other Contracting States.)

CHAPTER VI - GENERAL PROVISIONS

Article 25

The Contracting States shall ensure that information concerning the child's origin is preserved and that he or she has access, under appropriate guidance, to such information in so far as is permitted by the law of the State of origin and the law of the State where such information is held.

Article 26

Without prejudice to Article 25, personal data gathered or transmitted under the Convention, especially data referred to in Articles 15 and 16, shall be used only for the purposes for which they were gathered or transmitted.

Article 27

No one shall derive improper financial or other gain from an activity related to an intercountry adoption.

Only direct and indirect costs and expenses, including reasonable professional fees of persons involved in the adoption, may be charged or paid.

The directors, administrators and employees of bodies involved in an adoption shall not receive remuneration which is unreasonably high in relation to services rendered.

Article 28

Any competent authority which finds that one of the provisions of this Convention has not been respected or that there is a serious risk that it may not be respected, shall immediately inform the Central Authority of its State, so that this Central Authority may take the appropriate measures.

Article 29

The Secretary General of the Hague Conference on Private International Law shall at regular intervals convene a Special Commission in order to review the practical operation of the Convention.

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All the participants, for the work undertaken before the seminar and their commitment and hard work during it.

Jan Carroll
Sarah Williams

The European Forum for Child Welfare (EFCW) (a regional group of the International Forum for Child Welfare) is a grouping of not-for-profit, non-governmental European child welfare organisations which has been set up to raise the profile of child welfare within Europe and its institutions.

It aims to improve the quality of life for children and young people in Europe and in particular:

a. to ensure services for children in need and especially for those children whose rights are violated by individuals and/or states within Europe

b. to assist national governments and institutions within Europe to understand children's needs and respond appropriately

c. to support those members based in Europe who work with children in developing countries.

EFCW arranges seminars and conferences, produces briefings and a quarterly newsletter. A database is kept on NGO's concerned with child welfare and this wide range of information is of assistance to legislators and policy makers.

Further information and an application form can be obtained from:

The Secretary General
European Forum for Child Welfare
1 Rue Defacqz
B-1050
Brussels
Belgium

Price: BFr 650
£12.50
(both costs include p&p)

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